

3-1-2012

## State v. Fair Clerk's Record v. 1 Dckt. 39255

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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,

Plaintiff-Respondent,

vs.

LEE ODELL FAIR,

Defendant-Appellant.

Supreme Court Case No. 39255

CLERK'S RECORD ON APPEAL

Appeal from the District Court of the Fourth Judicial District, in and for the County of Ada.

HONORABLE DEBORAH A. BAIL

STATE APPELLATE PUBLIC DEFENDER

ATTORNEY FOR APPELLANT

BOISE, IDAHO

LAWRENCE G. WASDEN

ATTORNEY FOR RESPONDENT

BOISE, IDAHO

State of Idaho vs. Lee Odell Fair

Date	Code	User		Judge
11/23/2010	NCRF	PRSCHOKF	New Case Filed - Felony	Magistrate Court Clerk
	PROS	PRSCHOKF	Prosecutor assigned Ada County Prosecutor	Magistrate Court Clerk
	WARI	PRSCHOKF	Warrant Issued - Arrest Bond amount: 50000.00 Defendant: Fair, Lee Odell	Magistrate Court Clerk
	XSEA	PRSCHOKF	Case Sealed	Magistrate Court Clerk
	STAT	PRSCHOKF	STATUS CHANGED: Inactive	Magistrate Court Clerk
11/26/2010	HRSC	TCMCCOSL	Hearing Scheduled (Video Arraignment 11/26/2010 01:30 PM)	Kevin Swain
	WART	TCMCCOSL	Warrant Returned Defendant: Fair, Lee Odell	Magistrate Court Clerk
	XUNS	TCMCCOSL	Case Un-sealed	Magistrate Court Clerk
	STAT	TCMCCOSL	STATUS CHANGED: Pending	Magistrate Court Clerk
	BOOK	TCMCCOSL	Booked into Jail on:	Magistrate Court Clerk
	ARRN	TCEMERYV	Hearing result for Video Arraignment held on 11/26/2010 01:30 PM: Arraignment / First Appearance	Kevin Swain
	CHGA	TCEMERYV	Judge Change: Adminisitrative	Theresa Gardunia
	ORPD	TCEMERYV	Order Appointing Public Defender Ada County Public Defender	Theresa Gardunia
	HRSC	TCEMERYV	Hearing Scheduled (Preliminary 12/10/2010 08:30 AM)	Theresa Gardunia
	BSET	TCEMERYV	BOND SET: at 50000.00 - (I18-907(1)(A) Battery-Aggravated (Cause Great Bodily Harm or Disability))	Theresa Gardunia
	NCON	TCEMERYV	No Contact Order: No contact order OR Civil Protection Order Issued for- Comment: NCO: Gerald Blakley DR# 10-026725 No Exceptions Expiration Days: 365 Expiration Date: 11/26/2011	Richard Schmidt
	ORPD	MADEFRJM	Order Appointing Public Defender (file stamped 11/29/2010)	Theresa Gardunia
	ORPD	MADEFRJM	Order Appointing Public Defender	Theresa Gardunia
11/29/2010	NOPE	TCHAMPLJ	Notification of Penalties for Escape	Theresa Gardunia
12/1/2010	MFBR	TCRAMISA	Motion For Bond Reduction	Theresa Gardunia
	NOHG	TCRAMISA	Notice Of Hearing	Theresa Gardunia
	RQDD	TCRAMISA	Defendant's Request for Discovery	Theresa Gardunia
12/10/2010	CONT	CCMANLHR	Continued (Preliminary 12/28/2010 08:30 AM)	Theresa Gardunia
	MFBR	CCMANLHR	Motion For Bond Reduction Denied	Theresa Gardunia
	NOTC	TCWEGEKE	Notice of Preliminary Hearing Reset	Deborah Bail
12/15/2010	ORMR	CCMANLHR	Order For Delivery of Medical Records	Theresa Gardunia
12/28/2010	PHWV	CCMANLHR	Hearing result for Preliminary held on 12/28/2010 08:30 AM: Preliminary Hearing Waived (bound Over)	Charles Hay

State of Idaho vs. Lee Odell Fair

Date	Code	User	Judge
12/28/2010	HRSC	CCMANLHR	Hearing Scheduled (Arraignment 01/14/2011 09:30 AM)
	COMT	CCMANLHR	Commitment
	NOTC	TCWEGEKE	Notice of District Court Arraignment
1/3/2011	INFO	TCRAMISA	Information
1/10/2011	MOAM	TCBROXLV	Motion To Amend NCO
	NOHG	TCBROXLV	Notice Of Hearing
1/14/2011	DCAR	CCLUEDTC	Hearing result for Arraignment held on 01/14/2011 09:30 AM: District Court Arraignment- Court Reporter: Susan Gambiae Number of Pages: Motion to Amend NCO 50
	HRSC	CCLUEDTC	Hearing Scheduled (Entry of Plea 01/24/2011 01:30 PM)
	NCON	CCLUEDTC	No Contact Order: No contact order OR Civil Protection Order Issued for- Comment: Blakley Gerald Owen, Helly Thompson, Rachel Freeland Expiration Days: 0 Expiration Date:
1/18/2011	MFBR	TCBROXLV	Motion For Bond Reduction
	NOHG	TCBROXLV	Notice Of Hearing
	PROS	PRFLEMSM	Prosecutor assigned Jeffrey S White
1/19/2011	BNDS	TCWADAMC	Bond Posted - Surety (Amount 50000.00 )
	NOTC	TCWEGEKE	Notice of Court Date and Bond Receipt
1/24/2011	DCHH	CCLUEDTC	Hearing result for Entry of Plea held on 01/24/2011 01:30 PM: District Court Hearing Held Court Reporter: Susan Gambiae Number of Transcript Pages for this hearing estimated: Motion for Bond Reduction 50
	HRSC	CCLUEDTC	Hearing Scheduled (Pretrial Conference 03/14/2011 01:30 PM)
	PLEA	CCLUEDTC	A Plea is entered for charge: - NG (118-907(1)(A) Battery-Aggravated (Cause Great Bodily Harm or Disability))
	HRSC	CCLUEDTC	Hearing Scheduled (Jury Trial 03/24/2011 09:30 AM)
	INFP2	CCLUEDTC	Information Part 2 Filed
1/25/2011		CCLUEDTC	Notice of Trial Setting
	MOTN	TCBROXLV	Motion for Preliminary Hearing Transcript
1/26/2011	ORDR	CCLUEDTC	Order for PH Transcript
2/2/2011	NOTC	TCMALOWR	Notice of Prep of Transcript
2/14/2011	NOTC	TCRAMISA	Notice of Intent to Impeach Defendant Pursuant to IRE 609
	RSDS	TCRAMISA	State/City Response to Discovery
	RQDS	TCRAMISA	State/City Request for Discovery



State of Idaho vs. Lee Odell Fair

Date	Code	User		Judge
2/15/2011	RSDD	TCBROXLV	Defendant's Response to Discovery/Second	Deborah Bail
2/28/2011	RSDS	TCBROXLV	State/City Response to Discovery/Addendum	Deborah Bail
3/7/2011	PHTF	TCBROXLV	Preliminary Hearing Transcript Filed	Deborah Bail
3/11/2011	RSDS	TCBROXLV	State/City Response to Discovery/Second Addendum	Deborah Bail
3/15/2011	WARB	CCLUEDTC	Warrant Issued - Bench Bond amount: 1000000.00 Failure to Appear Defendant: Fair, Lee Odell	Deborah Bail
	STAT	CCLUEDTC	STATUS CHANGED: Inactive	Deborah Bail
		CCLUEDTC	Bench Warrant for Failure to Appear (ISSUED 3/15/11)	Deborah Bail
		CCLUEDTC	Notice of Forfeiture of Surety Bond	Deborah Bail
	DCHH	CCLUEDTC	Hearing result for Pretrial Conference held on 03/14/2011 01:30 PM: District Court Hearing Held Court Reporter: Susan Gambree Number of Transcript Pages for this hearing estimated: 50	Deborah Bail
	HRVC	CCLUEDTC	Hearing result for Jury Trial held on 03/24/2011 09:30 AM: Hearing Vacated	Deborah Bail
3/17/2011	WART	TCMCKEAE	Warrant Returned Failure to Appear Defendant: Fair, Lee Odell	Deborah Bail
	STAT	TCMCKEAE	STATUS CHANGED: Pending	Deborah Bail
	BOOK	TCMCKEAE	Booked into Jail on:	Deborah Bail
	HRSC	TCMCKEAE	Hearing Scheduled (Video Arraignment 03/17/2011 01:30 PM)	John Hawley Jr.
	HRSC	TCMCKEAE	Hearing Scheduled (Arraignment 03/28/2011 01:30 PM)	Deborah Bail
	ARRN	TCFINNDE	Hearing result for Video Arraignment held on 03/17/2011 01:30 PM: Arraignment / First Appearance	John Hawley Jr.
	ORPD	MADEFRJM	Order Appointing Public Defender	Deborah Bail
	ORPD	MADEFRJM	Order Appointing Public Defender	Deborah Bail
3/25/2011	MOEX	TCBROXLV	Motion to Exonerate Bond	Deborah Bail
3/28/2011	RSDS	TCFARANM	State/City Response to Discovery/Thurd Addendum	Deborah Bail
	DCHH	CCLUEDTC	Hearing result for Arraignment held on 03/28/2011 01:30 PM: District Court Hearing Held Court Reporter: Susan Gambree Number of Transcript Pages for this hearing estimated: 50	Deborah Bail
	HRSC	CCLUEDTC	Hearing Scheduled (Pretrial Conference 06/06/2011 09:30 AM)	Deborah Bail
	HRSC	CCLUEDTC	Hearing Scheduled (Jury Trial 07/05/2011 09:30 AM)	Deborah Bail
3/29/2011		CCLUEDTC	Notice of Re-Setting Trial	Deborah Bail

State of Idaho vs. Lee Odell Fair

Date	Code	User	Judge
4/11/2011	MOTN	TCBROXLV	Motion for Protection Order Pursuant to ICR 16(k) Deborah Bail
	NOHG	TCBROXLV	Notice Of Hearing Deborah Bail
	HRSC	TCBROXLV	Hearing Scheduled (Hearing Scheduled 04/18/2011 09:30 AM) Deborah Bail
4/12/2011	NOHG	TCFARANM	Notice Of Hearing Deborah Bail
	HRSC	TCFARANM	Hearing Scheduled (Hearing Scheduled 04/13/2011 02:30 PM) Motion for Protection Order Deborah Bail
4/13/2011	HRVC	CCLUEDTC	Hearing result for Hearing Scheduled held on 04/18/2011 09:30 AM: Hearing Vacated Motion for Protection Order Deborah Bail
	DCHH	CCLUEDTC	Hearing result for Hearing Scheduled held on 04/13/2011 02:30 PM: District Court Hearing Held Court Reporter: Susan Gambee Number of Transcript Pages for this hearing estimated: Motion for Protection Order 50 Deborah Bail
4/14/2011	ORDR	CCLUEDTC	Order For Protection Pursuant To ICR 16(k) Deborah Bail
4/27/2011	RSDD	TCFARANM	Defendant's Response to Discovery/3rd Deborah Bail
5/24/2011	RSDD	TCFARANM	State/City Response to Discovery/Fourth Addendum Deborah Bail
5/27/2011	MOTN	TCBROXLV	Defendant's Motion in Limine Deborah Bail
6/6/2011	DCHH	CCTHERTL	Hearing result for Pretrial Conference held on 06/06/2011 09:30 AM: District Court Hearing Held Court Reporter: Susan Gambee Number of Transcript Pages for this hearing estimated: 50 Deborah Bail
	HRSC	CCTHERTL	Hearing Scheduled (Pretrial Conference 06/20/2011 09:30 AM) Deborah Bail
	NOTC	CCTHERTL	Notice of Intent to Impeach a Witness Deborah Bail
	MISC	CCTHERTL	State's Objection to Defendant's Motion in Limine Deborah Bail
6/20/2011	DCHH	TCHOCA	Hearing result for Pretrial Conference held on 06/20/2011 09:30 AM: District Court Hearing Held Court Reporter: Susan Gambee Number of Transcript Pages for this hearing estimated: 50 Deborah Bail
	MISC	TCHOCA	Case Remains set for Trial Deborah Bail
	RSDD	TCBROXLV	Defendant's Response to Discovery/4th Deborah Bail
6/27/2011	ORDR	CCTHERTL	Ex Parte Order to Transport witness Deborah Bail
	ORDR	CCTHERTL	Ex Parte Order to Transport witness Deborah Bail
	ORDR	CCTHERTL	Ex Parte Order to Transport witness Deborah Bail
6/29/2011	NOTC	TCURQUAM	Notice of Intent to Impeach a Witness Pursuant to IRE 609 Deborah Bail
	MISC	TCTONGES	Defendant's List of Potential Trial Witnesses Deborah Bail
7/1/2011	STIP	CCTHERTL	Stipulation to Vacate and Reset Jury Trial Deborah Bail

State of Idaho vs. Lee Odell Fair

Date	Code	User	Judge
7/5/2011	CONT	CCTHERTL	Hearing result for Jury Trial scheduled on 07/05/2011 09:30 AM: Continued
	HRSC	CCTHERTL	Hearing Scheduled (Pretrial Conference 07/25/2011 09:30 AM)
	HRSC	CCTHERTL	Hearing Scheduled (Jury Trial 08/09/2011 09:30 AM)
		CCTHERTL	Notice of Re-Setting Trial
7/12/2011	RSDD	TCTONGES	Defendant's Response to Discovery/5th
7/21/2011	MOTN	TCURQUAM	Motion for Jury Instructions
	MISC	TCURQUAM	Addendum to Defendant's List of Potential Trial Witnesses
	RSDD	TCURQUAM	Defendant's Response to Discovery/6th
7/22/2011	RSDD	TCBROXLV	State/City Response to Discovery/Fifth Addendum
7/25/2011	DCHH	CCTHERTL	Hearing result for Pretrial Conference scheduled on 07/25/2011 09:30 AM: District Court Hearing Held Court Reporter: Susan Gambee Number of Transcript Pages for this hearing estimated: 50
	MISC	CCTHERTL	State's List of Potential Trial Witnesses
	ORDR	CCTHERTL	Ex Parte Order to Transport Witness
7/27/2011	MISC	TCBROXLV	Addendum to Defendant's List of Potential Trial Witnesses
	RSDD	TCBROXLV	Defendant's Response to Discovery/7th
7/28/2011	RSDD	TCTONGES	Defendant's Response to Discovery/Sixth Addendum
	ORDR	CCTHERTL	Ex Parte Order to Transport Witness
	ORDR	CCTHERTL	Ex Parte Order to Transport Witness
7/29/2011	STIP	TCTONGES	Stipulation Regarding Attendance of a Court Reporter
8/5/2011	MOTN	TCOLSOMC	State's Motion in Limine
	MISC	TCOLSOMC	Memorandum in Support of State's Motion in Limine
	RSDD	TCWEGEKE	State's Seventh Addendum to Discovery Response to Court
8/8/2011	MISC	TCOLSOMC	Defendant's Response to State's Motion in Limine
	MISC	TCOLSOMC	Addendum to Defendant's List of Potential Trial Witnesses
8/9/2011	JTST	CCTHERTL	Hearing result for Jury Trial scheduled on 08/09/2011 09:30 AM: Jury Trial Started

State of Idaho vs. Lee Odell Fair

Date	Code	User	Judge
8/9/2011	DCHH	CCTHERTL	Hearing result for Jury Trial scheduled on 08/09/2011 09:30 AM: District Court Hearing Held Court Reporter: Susan Gambee Number of Transcript Pages for this hearing estimated: 150
8/10/2011	DCHH	CCTHERTL	District Court Hearing Held Jury Trial Day 2 Court Reporter: Susan Gambee Number of Transcript Pages for this hearing estimated: 250
	AINF	CCTHERTL	Amended Information
8/11/2011	DCHH	CCTHERTL	District Court Hearing Held Jury Trial Day 3 Court Reporter: Susan Gambee Number of Transcript Pages for this hearing estimated: 250
	FIGT	CCTHERTL	Finding of Guilty (I18-907(1)(A) Battery-Aggravated (Cause Great Bodily Harm or Disability))
	JUIN	CCTHERTL	Jury Instructions Filed
	VERD	CCTHERTL	Verdict Form
	FIGT	CCTHERTL	Finding of Guilty (I19-2514 Enhancement-Persistent Violator)
	STAT	CCTHERTL	STATUS CHANGED: closed pending clerk action
	JUIN	CCTHERTL	Jury Instructions Filed - Info Part II
	VERD	CCTHERTL	Verdict Form
8/12/2011	PSMH1	CCTHERTL	Order for Pre-Sentence Investigation Report and Mental Health Assessment and Substance Abuse Assessment
	HRSC	CCTHERTL	Hearing Scheduled (Sentencing 10/03/2011 03:00 PM)
10/3/2011	DCHH	CCTHERTL	Hearing result for Sentencing scheduled on 10/03/2011 03:00 PM: District Court Hearing Held Court Reporter: Susan Gambee Number of Transcript Pages for this hearing estimated: 50
	JAIL	CCTHERTL	Sentenced to Jail or Detention (I18-907(1)(A) Battery-Aggravated (Cause Great Bodily Harm or Disability)) Confinement terms: Penitentiary determinate: 5 years. Penitentiary indeterminate: 15 years.
10/4/2011	JCOC	DCWEGEKE	Judgment Of Conviction & Order Of Commitment
10/6/2011	APSC	CCTHIEBJ	Appealed To The Supreme Court
10/7/2011	ORDR	CCTHERTL	Order Appointing State Appellate Public Defender on Direct Appeal
10/11/2011	MOTN	TCOLSOMC	Motion for Restitution and Judgment
10/14/2011	ORDR	CCTHERTL	Order for Exoneration of Bail Bond after Forfeiture
	BNDE	CCTHERTL	Surety Bond Exonerated (Amount 50,000.00)

000007

State of Idaho vs. Lee Odell Fair

Date	Code	User		Judge
10/17/2011	OBJE	TCHAWKKL	Defendant's Objection to Restitution	Deborah Bail
	MOTN	TCOLSOMC	Amended Motion for Restitution and Judgment	Deborah Bail
10/19/2011	MOTN	TCTONGES	Motion for Correction or Reduction of Sentence, ICR 35	Deborah Bail
10/21/2011	OBJE	TCOLSOMC	State's Objection to Defendant's ICR 35 Motion	Deborah Bail
10/26/2011	HRSC	CCTHERTL	Hearing Scheduled (Hearing Scheduled 11/21/2011 09:30 AM) Restitution Hearing	Deborah Bail
		CCTHERTL	Notice of Hearing	Deborah Bail
		CCTHERTL	Order to Transport	Deborah Bail
11/4/2011	MOTN	TCOLSOMC	Defendant's Motion to Allow Time to Supplement ICR 35 Motion	Deborah Bail
11/18/2011	HRVC	CCTHERTL	Hearing result for Hearing Scheduled scheduled on 11/21/2011 09:30 AM: Hearing Vacated Restitution Hearing	Deborah Bail
	HRSC	CCTHERTL	Hearing Scheduled (Hearing Scheduled 12/12/2011 09:30 AM) Restitution Hearing	Deborah Bail
11/21/2011		CCTHERTL	Order to Transport	Deborah Bail
12/7/2011	RSDS	TCLANGAJ	State/City Response to Discovery/Eighth Addendum	Deborah Bail
12/8/2011	HRVC	CCTHERTL	Hearing result for Hearing Scheduled scheduled on 12/12/2011 09:30 AM: Hearing Vacated Restitution Hearing	Deborah Bail
12/16/2011	NOHG	TCOLSOMC	Notice Of Hearing	Deborah Bail
	MOTN	TCOLSOMC	Defendant's Motion for New Trial	Deborah Bail
	HRSC	TCOLSOMC	Hearing Scheduled (Hearing Scheduled 02/13/2012 09:30 AM) Motion for New Trial	Deborah Bail
12/22/2011		CCTHERTL	Order to Transport	Deborah Bail
1/25/2012	RSDD	TCLANGAJ	Defendant's Eighth Response to Discovery	Deborah Bail
	RULE35	TCLANGAJ	Motion for Reconsideration of Sentence	Deborah Bail
	MOTN	TCLANGAJ	Addendum to Defendant's Motion for a New Trial	Deborah Bail
	OBJE	TCTONGES	State's Objection to Defendant's Motion for New Trial	Deborah Bail
	AFFD	TCTONGES	Affidavit of Scott Palmer	Deborah Bail
2/1/2012	NOTC	CCTHIEBJ	Notice Of Transcript Lodged - Supreme Court Docket No. 39255	Deborah Bail

DR # 10-026725

NO. \_\_\_\_\_  
A.M. \_\_\_\_\_ P.M. 2:59

**NOV 22 2010**

J. DAVID NAVARRO, Clerk  
By S. McCormack  
DEPUTY

**GREG H. BOWER**  
Ada County Prosecuting Attorney

Whitney A. Faulkner  
Deputy Prosecuting Attorney  
200 W. Front Street, Room 3191  
Boise, Idaho 83702  
Telephone: (208) 287-7700

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO, )

Plaintiff, )

vs. )

LEE ODELL FAIR, )

Defendant. )

Case No. CR-FE-2010-0020120

**COMPLAINT**

Fair's DOB: [REDACTED]

Fair's SSN: [REDACTED]

PERSONALLY APPEARED Before me this 22<sup>nd</sup> day of November 2010, Whitney A. Faulkner, Deputy Prosecuting Attorney, in and for the County of Ada, State of Idaho, who, being first duly sworn, complains and says: that LEE ODELL FAIR, on or about the 16th day of October, 2010, in the County of Ada, State of Idaho, did commit the crime of AGGRAVATED BATTERY, FELONY, I.C. §18-903(a), 907(a) as follows:

That the Defendant, LEE ODELL FAIR, on or about the 16th day of October, 2010, in the County of Ada, State of Idaho, did willfully and unlawfully use force and/or violence upon the person of Gerald Owen Blakely causing great bodily harm, to-wit: by punching Gerald Blakely in the face and breaking his jaw and/or causing his lip to be lacerated.

All of which is contrary to the form, force and effect of the statute in such case and against the peace and dignity of the State of Idaho.


Said Complainant therefore prays that a Warrant issue for the arrest of the Defendant and that LEE ODELL FAIR, may be dealt with according to law.

**GREG H. BOWER**  
Ada County Prosecutor



Whitney A. Faulkner  
Deputy Prosecuting Attorney

SUBSCRIBED AND Sworn to before me this 22 day of November 2010.

  
Magistrate

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT

STATE OF IDAHO, ADA COUNTY, MAGISTRATE DIVISION

PROBABLE CAUSE FORM

STATE OF IDAHO

vs.

Lee O'dell Fair

PROSECUTOR W. Faulkner

COMPLAINING WITNESS \_\_\_\_\_

CASE NO. 10-026725

CLERK J. Ortega

DATE 11/22/10 TIME 2:20

TOXIMETER \_\_\_\_\_

CASE ID. HICKS112210 BEG. 142042

END 142440

JUDGE

- |   |   |
|---|---|
| <input type="checkbox"/> BERECH           | <input type="checkbox"/> MacGREGOR-IRBY |
| <input type="checkbox"/> BIETER           | <input type="checkbox"/> MANWEILER      |
| <input type="checkbox"/> CAWTHON          | <input type="checkbox"/> McDANIEL       |
| <input type="checkbox"/> COMSTOCK         | <input type="checkbox"/> MINDER         |
| <input type="checkbox"/> DAY              | <input type="checkbox"/> OTHS           |
| <input type="checkbox"/> GARDUNIA         | <input type="checkbox"/> REARDON        |
| <input type="checkbox"/> HARRIGFELD       | <input type="checkbox"/> STECKEL        |
| <input type="checkbox"/> HAWLEY           | <input type="checkbox"/> SWAIN          |
| <input checked="" type="checkbox"/> HICKS | <input type="checkbox"/> WATKINS        |
| <input type="checkbox"/> _____            |   |
| <input type="checkbox"/> _____            |   |

STATUS

- ☒ State WITNESS SWORN
- ☒ PC FOUND \_\_\_\_\_
- ☒ COMPLAINT SIGNED
- ☐ AMENDED COMPLAINT SIGNED
- ☐ NO PC FOUND \_\_\_\_\_
- ☐ EXONERATE BOND
- ☐ SUMMONS TO BE ISSUED
- ☒ WARRANT ISSUED
- ☒ BOND SET \$ 50,000.00
- ☐ NO CONTACT

D.R. # \_\_\_\_\_

- ☐ DISMISS CASE
- ☐ IN CUSTODY

COMMENTS

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

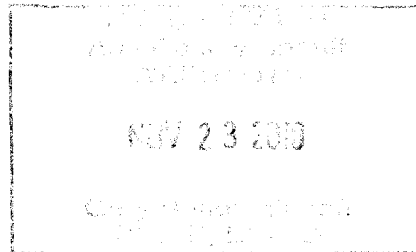


DR # 10-026725  
OFFICER: MILLER  
AGENCY: Boise Police Department

NO. 8100 FILED  
A.M. 8:00 P.M.  
NOV 26 2010  
J. DAVID NAVARRO, Clerk  
By S. McCormack  
DEPUTY

GREG H. BOWER  
Ada County Prosecuting Attorney

Whitney A. Faulkner  
Deputy Prosecuting Attorney  
200 W. Front Street, Room 3191  
Boise, Idaho 83702  
Phone: 287-7700  
Fax: 287-7709



IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,	)	
	)	
Plaintiff,	)	Case No. CR-FE-2010-00 <u>20120</u>
	)	
vs.	)	ARREST WARRANT
	)	
LEE ODELL FAIR,	)	
	)	
Defendant.	)	
	)	

Address: 1324 FLAMINGO ST. NAMPA, ID  
DOB [REDACTED] SSN: [REDACTED]  
Sex: Male Race: White Height: 6' Weight: 160 lbs.  
Hair/Eyes: Brown/Green

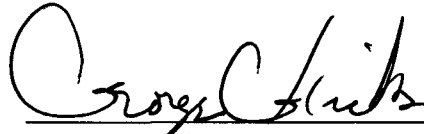
TO ANY SHERIFF, CONSTABLE, MARSHAL OR POLICEMAN IN THE  
STATE OF IDAHO:

SM

A COMPLAINT UPON OATH having been this day laid before me by Whitney A. Faulkner, Deputy Prosecuting Attorney, stating that the crime of: AGGRAVATED BATTERY, FELONY, I.C. §18-903(a), 907(a) has been committed, and accusing LEE ODELL FAIR thereof;

YOU ARE THEREFORE COMMANDED to immediately arrest the Defendant named above at any time during the day or night, and to bring him/her before me at my office in the County of Ada, or in case of my absence or inability to act, before the nearest or most accessible Magistrate in Ada County.

DATED This 25 day of November, 2010.

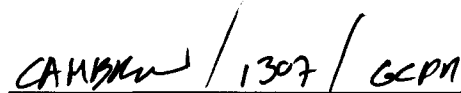


Magistrate for the District Court  
of the Fourth Judicial District,  
Magistrate Division

Bond \$ 50,000

#### RETURN OF SERVICE

I HEREBY CERTIFY that I served the foregoing Warrant by arresting the Defendant and bringing FAIR, LEE into Court this 25 day of NOV, 2010.



(Deputy Sheriff) (State Policeman)  
(City Policeman)

## COMMITMENT FOR EXAMINATION AFTER APPEARANCE

THE WITHIN NAMED Defendant, having been brought before me under this Warrant, is committed for examination to the Sheriff of Ada County, State of Idaho, and is admitted to bail in the sum of \$\_\_\_\_\_, surety, cash or by undertaking of two sufficient sureties, and is committed to the custody of the Sheriff of Ada County until such bail is given. This Cause is continued for further appearance until \_\_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
Magistrate for the District Court  
of the Fourth Judicial District,  
Magistrate Division

## ORDER OF RELEASE

TO THE SHERIFF OF ADA COUNTY, IDAHO:

**YOU ARE HEREBY ORDERED** to release the Defendant from your custody.

DATED: \_\_\_\_\_

\_\_\_\_\_  
Magistrate for the District Court  
of the Fourth Judicial District,  
Magistrate Division

NCIC ENTRY: (Additional Levels Inclusive)

☐ North West Shuttle (ID, WA, OR)

☒ Western States (ID, WA, OR, MT, CA, WY, SD, ND, UT, CO,  
AZ, NV)

☐ Nationwide

BY: WMT

DATED: 11/22/10

ADA COUNTY MAGISTRATE MINUTES

Lee Odell Fair CR-FE-2010-0020120

DOB: [REDACTED]

Scheduled Event: Video Arraignment Friday, November 26, 2010 01:30 PM

Judge: Kevin Swain Schmidt Clerk: Debbie Emery Interpreter: \_\_\_\_\_

Prosecuting Agency: AC BC EA GC MC Pros: Tammara Kelly  
PD Attorney: Anita Moore

• 118-907(1)(A) Battery-Aggravated (Cause Great Bodily Harm or Disability) F

144749 Case Called Defendant: ✓ Present        Not Present ✓ In Custody

       Advised of Rights        Waived Rights        PD Appointed        Waived Attorney

       Guilty Plea / PV Admit        N/G Plea        Advise Subsequent Penalty

       Bond \$ 50,000        ROR        Pay / Stay        Payment Agreement

       In Chambers        PT Memo        Written Guilty Plea        No Contact Order

Advises def Charge  
A pp

PIH 12 / 10 / 2010 @ 8:30

NCC Gerald Bakley  
DR# 10-026725

Finish ( ) Release Defendant

144926

AM 2:49  
NOV 26, 2010  
J. DAVID NAVARRO  
By Wick  
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO, )  
Plaintiff, )  
vs. )  
FAIR LEE ODELL )  
DOB [REDACTED] SSN [REDACTED] )  
Defendant. )

Case No. CRFE20100020120  
Reference No. \_\_\_\_\_

NO CONTACT ORDER  
☐ AMENDED

DR # 10-026725  
☐ Ada ☒ Boise ☐ GC ☐ Meridian

The above-entitled matter having come before the Court, and good cause appearing therefor,

IT IS HEREBY ORDERED that the above-named defendant shall not contact (including: in person or through another person, or in writing or e-mail, or by telephone, pager, or facsimile) or attempt to contact, harass, follow, communicate with, or knowingly remain within 100 feet of: BLAKELY GERALD OWEN.

Exceptions are:

- ☒ no exceptions  
☐ to contact by telephone between \_\_\_\_\_ .m. and \_\_\_\_\_ .m. on \_\_\_\_\_  
\_\_\_\_\_ for the following purposes: \_\_\_\_\_  
☐ to participate in counseling/mediation  
☐ to provide for the exchange of children between the parties through \_\_\_\_\_  
☐ to retrieve personal necessities from the residence/protected address through \_\_\_\_\_  
☐ to meet with or through attorneys and/or during legal proceedings  
☐ to respond to emergencies involving the natural or adopted children of both parties  
☐ other: \_\_\_\_\_

IT IS FURTHER ORDERED that the defendant named herein shall not go within 300 yards of the above-named person's residence or workplace as set forth below (provide this information only if requested by prosecution):

Residence Address \_\_\_\_\_

Work Address \_\_\_\_\_

A VIOLATION OF THIS ORDER IS A SEPARATE CRIME under Idaho Code § 18-920, for which no bail will be set until an appearance before a judge. A first and second conviction for the crime of violation of a no contact order is a misdemeanor and is punishable by a fine not exceeding one thousand dollars (\$1,000) or by imprisonment in the county jail not to exceed one (1) year, or both. A third conviction for violation of a no contact order within five (5) years is a felony and is punishable by a fine not exceeding five thousand dollars (\$5,000) or by imprisonment in the state prison not to exceed five (5) years, or both. Further, any such violation of this order may result in the increase, revocation, or modification of the bond set in the underlying charge for which this no contact order was imposed.

If there is more than one domestic violence protection order in place, the most restrictive provision will control any conflicting terms of any other civil or criminal protection order.

This order may subject you to Federal prosecution under 18 U.S. Code § 922 if you possess, receive, or transport a firearm.

THIS ORDER CAN BE MODIFIED ONLY BY A JUDGE AND WILL EXPIRE AT 11:59 p.m. ON 26 Nov 2011  
OR UPON DISMISSAL OF THIS CASE, WHICHEVER FIRST OCCURS.

Defendant \_\_\_\_\_ Date \_\_\_\_\_

Judge 215 Date 11/26/2010

Served by: \_\_\_\_\_

Date served: \_\_\_\_\_

NO CONTACT ORDER

☐ FILE ☐ ACSO ☐ PROSECUTOR

[REV 6-2010]

000016

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

NO. \_\_\_\_\_ FILED P.M. 12:23

MAGISTRATE DIVISION

NOV 29 2010

STATE OF IDAHO,  
Plaintiff.

vs.

Lee Odell Fair  
6130 Russett  
Boise, ID 83704

Defendant.

J. DAVID NAVARRO, Clerk

Case No: CR-FE-2010-0020120 By LESLIE HAMPE  
DEPUTY

NOTICE OF APPOINTMENT OF PUBLIC DEFENDER  
AND SETTING CASE FOR HEARING

☒ Ada ☐ Boise ☐ Eagle ☐ Garden City ☐ Meridian

TO: Ada County Public Defender

**YOU ARE HEREBY NOTIFIED** that you are appointed to represent the defendant in this cause, or in the District Court until relieved by court order. The case is continued for:

Preliminary Judge: Friday, December 10, 2010 08:30 AM  
Theresa Gardunia

**BOND AMOUNT:** \_\_\_\_\_ The Defendant is: ☐ In Custody ☐ Released on Bail ☐ ROR

TO: The above named defendant

**IT HAS BEEN ORDERED BY THIS COURT** that the defendant is to contact the Ada County Public Defender's Office at 200 W. Front Street, Room 1107, Boise, Idaho 83702. Telephone: (208) 287-7400. If the defendant is unable to post bond and obtain his/her release from jail, that the proper authorities allow the defendant to make a phone call to the Ada County Public Defender.

**IT HAS BEEN FURTHER ORDERED:** That the parties, prior to the pre-trial conference, complete and comply with Rule 16 I.C.R. and THAT THE DEFENDANT BE **PERSONALLY PRESENT** AT BOTH THE PRE-TRIAL CONFERENCE AND / OR THE JURY TRIAL: FAILURE TO APPEAR AT EITHER THE PRE-TRIAL CONFERENCE OR THE JURY TRIAL WILL RESULT IN A **BENCH WARRANT** FOR THE DEFENDANT'S **ARREST**.

Dated : 11/26/2010

\_\_\_\_\_  
Deputy Clerk

I hereby certify that copies of this Notice were served as follows on this date Friday, November 26, 2010.

Defendant: Mailed \_\_\_\_\_ Hand Delivered ☒ Signature \_\_\_\_\_  
Clerk / date \_\_\_\_\_ Phone ( ) \_\_\_\_\_

Prosecutor: Interdepartmental Mail ☒

Public Defender: Interdepartmental Mail ☒ 11/29

*Leslie Hampe*  
Deputy Clerk  
11-26-10

000017

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT  
STATE OF IDAHO, ADA COUNTY

FILED <u>11/29/10</u> AT <u>12:23 P.M.</u>
J. DAVID NAVARRO, CLERK OF THE DISTRICT COURT
BY <u>Leslie Hampe</u> Deputy

STATE OF IDAHO,

Plaintiff,

vs.

Fair

Defendant

SSN: XXX-XX-

CASE NO. FE-10-20120

NOTIFICATION OF CONSEQUENCES AND  
PENALTIES FOR ESCAPE PURSUANT TO  
I.C. §§ 18-2505, 2506

TO: THE ABOVE-NAMED DEFENDANT, YOU ARE HEREBY NOTIFIED AS FOLLOWS:

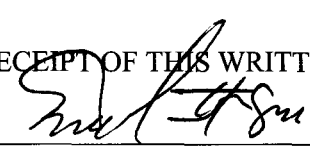
I.C. § 18-2505 (1) Every prisoner charged with, convicted of, or on probation for a **felony** who is confined in any correctional facility, as defined in section 18-101A, Idaho Code, including any private correctional facility, or who while outside the walls of such correctional facility in the proper custody of any officer or person, or while in any factory, farm or other place without the walls of such correctional facility, who escapes or attempts to escape from such officer or person, or from such correctional facility, or from such factory, farm or other place without the walls of such correctional facility, shall be guilty of a **felony**, and upon conviction thereof, any such second term of imprisonment shall commence at the time he would otherwise have been discharged. **A felony is punishable by fine not exceeding fifty thousand dollars (\$50,000.00) or imprisonment in the state prison not to exceed five (5) years or both.**

I.C. § 18-2506 (1)(a) Every prisoner charged with or convicted of a **misdemeanor** who is confined in any county jail or other place or who is engaged in any county work outside of such jail or other place, or who is in the lawful custody of any officer or person, who escapes or attempts to escape therefrom, is guilty of a **misdemeanor**. **A misdemeanor is punishable by fine not exceeding \$1000.00 or by imprisonment in the county jail not to exceed one (1) year or both.**

(b) In cases involving escape or attempted escape by use of threat, intimidation, force, violence, injury to person or property other than that of the prisoner, or wherein the escape or attempted escape was perpetrated by use or possession of any weapon, tool, instrument or other substance, the prisoner shall be guilty of a **felony**.

Escape shall be deemed to include abandonment of a job site or work assignment without the permission of an employment supervisor or officer. Escape includes the intentional act of leaving the area of restriction set forth in a court order admitting a person to bail or release on a person's own recognizance with electronic or global positioning system tracking, monitoring and detention or the area of restriction set forth in a sentencing order, except for leaving the area of restriction for the purpose of obtaining emergency medical care.

I ACKNOWLEDGE RECEIPT OF THIS WRITTEN NOTICE.

Defendant: 

Dated: 11-26-10

LH

000018

253  
PH  
12/10  
8/22

ADA COUNTY PUBLIC DEFENDER  
Attorneys for Defendant  
200 West Front Street, Suite 1107  
Boise, Idaho 83702  
Telephone: (208) 287-7400  
Facsimile: (208) 287-7409

A.M. FILED P.M. 3

DEC 01 2010

J. DAVID NAVARRO, Clerk  
By LANI BROXSON  
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff

vs.

LEE ODELL FAIR,


Defendant.

Case No. CR-FE-2010-0020120

MOTION FOR BOND REDUCTION

COMES NOW, LEE ODELL FAIR, the above-named defendant, by and through counsel ANN L COSHO, Ada County Public Defender's office, and moves this Court for its ORDER reducing bond in the above-entitled matter upon the grounds that the bond is so unreasonably high that the defendant, who is an indigent person without funds, cannot post such a bond, and for the reason that the defendant has thereby been effectively denied their right to bail.

DATED, Tuesday, November 30, 2010.

  
ANN L COSHO  
Attorney for Defendant

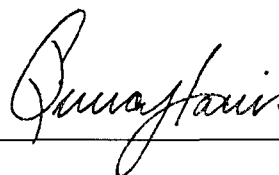
CERTIFICATE OF MAILING

I HEREBY CERTIFY, that on Tuesday, November 30, 2010, I mailed a true and correct copy of the within instrument to:

JAMES M VAVREK  
Counsel for the State of Idaho

by placing said same in the Interdepartmental Mail.

MOTION FOR BOND REDUCTION



000019



ADA COUNTY PUBLIC DEFENDER  
Attorneys for Defendant  
200 West Front Street, Suite 1107  
Boise, Idaho 83702  
Telephone: (208) 287-7400  
Facsimile: (208) 287-7409

NO. \_\_\_\_\_ FILED \_\_\_\_\_  
A.M. \_\_\_\_\_ P.M. 3

DEC 01 2010

J. DAVID NAVARRO, Clerk  
By LANI BROXSON  
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,  
Plaintiff

vs.

LEE ODELL FAIR,  
Defendant.


Case No. CR-FE-2010-0020120

NOTICE OF HEARING

TO: THE STATE OF IDAHO, Plaintiff, and to JAMES M VAVREK:

YOU, AND EACH OF YOU, are hereby notified that the defendant will call for a hearing on MOTION FOR BOND REDUCTION, now on file in the above-entitled matter, on Friday, December 10, 2010, at the hour of 08:30 AM, in the courtroom of the above-entitled court, or as soon thereafter as counsel may be heard.

DATED, Tuesday, November 30, 2010.

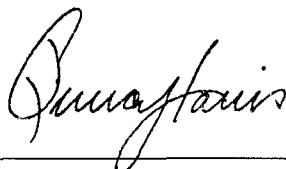
  
ANN L COSHO  
Attorney for Defendant

CERTIFICATE OF MAILING

I HEREBY CERTIFY, that on Tuesday, November 30, 2010, I mailed a true and correct copy of the within instrument to:

JAMES M VAVREK  
Counsel for the State of Idaho

by placing said same in the Interdepartmental Mail.



NOTICE OF HEARING

000020

ADA COUNTY PUBLIC DEFENDER  
Attorneys for Defendant  
200 West Front Street, Suite 1107  
Boise, Idaho 83702  
Telephone: (208) 287-7400  
Facsimile: (208) 287-7409

FILED 3  
P.M.

DEC 01 2010

J. DAVID NAVARRO, Clerk  
By LANI BROXSON  
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff

vs.

LEE ODELL FAIR,

Defendant.

Case No. CR-FE-2010-0020120

REQUEST FOR DISCOVERY

TO: THE STATE OF IDAHO, Plaintiff, and to ADA COUNTY PROSECUTOR:


PLEASE TAKE NOTICE, that the undersigned, pursuant to ICR 16, requests discovery and photocopies of the following information, evidence, and materials:

- 1) All **unredacted** material or information within the prosecutor's possession or control, or which thereafter comes into his possession or control, which tends to negate the guilt of the accused or tends to reduce the punishment thereof. ICR 16(a).
- 2) Any **unredacted**, relevant written or recorded statements made by the defendant, or copies thereof, within the possession, custody or control of the state, the existence of which is known or is available to the prosecuting attorney by the exercise of due diligence; and also the substance of any relevant, oral statement made by the defendant whether before or after arrest to a peace officer, prosecuting attorney or the prosecuting attorney's agent; and the recorded testimony of the defendant before a grand jury which relates to the offense charged.
- 3) Any **unredacted**, written or recorded statements of a co-defendant; and the substance of any relevant oral statement made by a co-defendant whether before or after arrest in response to interrogation by any person known by the co-defendant to be a peace officer or agent of the prosecuting attorney.
- 4) Any prior criminal record of the defendant and co-defendant, if any.
- 5) All **unredacted** documents and tangible objects as defined by ICR 16(b)(4) in the possession or control of the prosecutor, which are material to the defense, intended for use by the prosecutor or obtained from or belonging to the defendant or co-defendant.

- 6) All reports of physical or mental examinations and of scientific tests or experiments within the possession, control, or knowledge of the prosecutor, the existence of which is known or is available to the prosecutor by the exercise of due diligence.
- 7) A written list of the names, addresses, records of prior felony convictions, and written or recorded statements of all persons having knowledge of facts of the case known to the prosecutor and his agents or any official involved in the investigatory process of the case.
- 8) A written summary or report of any testimony that the state intends to introduce pursuant to rules 702, 703, or 705 of the Idaho Rules of Evidence at trial or hearing; including the witness' opinions, the facts and data for those opinions, and the witness' qualifications.
- 9) All reports or memoranda made by police officers or investigators in connection with the investigation or prosecution of the case, including what are commonly referred to as "ticket notes."
- 10) Any writing or object that may be used to refresh the memory of all persons who may be called as witnesses, pursuant to IRE 612.
- 11) Any and all audio and/or video recordings made by law enforcement officials during the course of their investigation.
- 12) Any evidence, documents, or witnesses that the state discovers or could discover with due diligence after complying with this request.

The undersigned further requests written compliance within 14 days of service of the within instrument.

**DATED**, Tuesday, November 30, 2010.

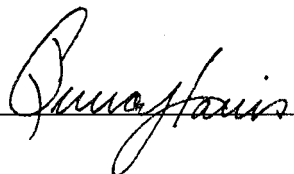
  
\_\_\_\_\_  
**ANN L COSHO**  
**Attorney for Defendant**

**CERTIFICATE OF MAILING**

**I HEREBY CERTIFY**, that on Tuesday, November 30, 2010, I mailed a true and correct copy of the within instrument to:

**ADA COUNTY PROSECUTOR**  
**Counsel for the State of Idaho**

by placing said same in the Interdepartmental Mail.

  
\_\_\_\_\_

2

# ADA COUNTY MAGISTRATE MINUTES

Lee Odell Fair CR-FE-2010-0020120

DOB [REDACTED]

Scheduled Event: Preliminary Friday, December 10, 2010 08:30 AM

Judge: Theresa Gardunia

Clerk: H. MANLEY

Interpreter: \_\_\_\_\_

Prosecuting Agency: ☒ AC ☐ BC ☐ EA ☐ GC ☐ MC

Pros: J. Vanech

PD/ Attorney: A. Cosho

• 1 I18-907(1)(A) Battery-Aggravated (Cause Great Bodily Harm or Disability) F

90835 Case Called Defendant: ☒ Present ☐ Not Present ☒ In Custody

☐ Advised of Rights ☐ Waived Rights ☐ PD Appointed ☐ Waived Attorney

☐ Guilty Plea / PV Admit ☐ N/G Plea ☐ Advise Subsequent Penalty

☐ Bond \$ ☐ ROR ☐ Pay / Stay ☐ Payment Agreement

☐ In Chambers <sup>50,000.-</sup> ☐ PT Memo ☐ Written Guilty Plea ☐ No Contact Order

#2 - req \$10 - more durney  
#1 - no obj

Case reset to 12/28/10 @ 8:30

Motion for Bond Reduction Denied

Finish ( ) Release Defendant

000023

FILED 12/9/10 AT 9:10 M.  
J. DAVID NAVARRO,  
CLERK OF THE DISTRICT COURT  
BY H Manley  
Deputy

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff,

vs. Lee Odell Fair

Defendant.

CASE NO. Feb 20120

NOTICE OF:

☒ Ada ☐ Boise ☐ GC ☐ Meridian

☐ FURTHER PROCEEDINGS

☐ TRIAL SET COURT/JURY

☒ PRELIMINARY HEARING RESET

☐ DISTRICT COURT ARRAIGNMENT

BEFORE JUDGE \_\_\_\_\_

BEFORE JUDGE \_\_\_\_\_

BEFORE JUDGE Gardnia

BEFORE JUDGE \_\_\_\_\_

NOTICE IS HEREBY GIVEN to the above-named Defendant that proceedings in this case have been continued until 8:30 o'clock a.m./p.m. on 12/28/10, in the courtroom at the

ADA COUNTY COURTHOUSE, 200 W. FRONT STREET, BOISE, ID 83702

You must appear as scheduled above. Failure to do so will result in a warrant being issued for your arrest.

J. DAVID NAVARRO, Clerk

DATED 12/10/10

By: H Manley  
Deputy Clerk

I hereby certify that copies of this Notice were served as follows:

Defendant:  
Hand Delivered ☒ Mailed ☐  
Clerk Bn Date \_\_\_\_\_

Defense Attorney:  
Hand Delivered ☐ Mailed ☐  
Clerk \_\_\_\_\_ Date \_\_\_\_\_

Prosecutor ☒ - Interdepartmental Mail  
Public Defender ☒ - Interdepartmental Mail

Signature Des Sun  
Address \_\_\_\_\_

Clerk \_\_\_\_\_ Date \_\_\_\_\_  
Clerk \_\_\_\_\_ Date \_\_\_\_\_

000024

12-28

NO. \_\_\_\_\_  
A.M. 1047 FILED P.M. \_\_\_\_\_

DEC 15 2010

J. DAVID NAVARRO, Clerk  
By Hmanley  
DEPUTY

**GREG H. BOWER**  
Ada County Prosecuting Attorney

James M. Vavrek  
Deputy Prosecuting Attorney  
200 West Front Street, Room 3191  
Boise, Idaho 83702  
Phone: 287-7700  
Fax: 287-7709

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,	)	<b>Case No. CR-FE-2010-0020120</b>
	)	
Plaintiff,	)	<b>ORDER FOR DELIVERY OF</b>
vs.	)	<b>MEDICAL RECORDS TO THE</b>
	)	<b>ADA COUNTY PROSECUTING</b>
LEE ODELL FAIR,	)	<b>ATTORNEY'S OFFICE</b>
	)	<b>PURSUANT TO THE HEALTH</b>
Defendant,	)	<b>INSURANCE PORTABILITY</b>
	)	<b>AND ACCOUNTABILITY ACT</b>
_____	)	<b>AND IDAHO CODE §19-3004;</b>
	)	<b>ICR 17</b>

This Court, upon information from the Ada County Prosecuting Attorney's Office that certain medical records described herein are necessary for preparation and presentation of the Prosecution's case in the above-captioned matter, and the Court concluding that the medical records do appear to be relevant and necessary to the proper adjudication of this matter, hereby orders that employees or representatives of St. Alphonsus Regional Medical Center produce all personal health information, including but not limited to medical records, documents,

**ORDER FOR DELIVERY OF MEDICAL RECORDS TO THE ADA COUNTY PROSECUTING ATTORNEY'S OFFICE PURSUANT TO THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT AND IDAHO CODE §19-3004; ICR 17,**

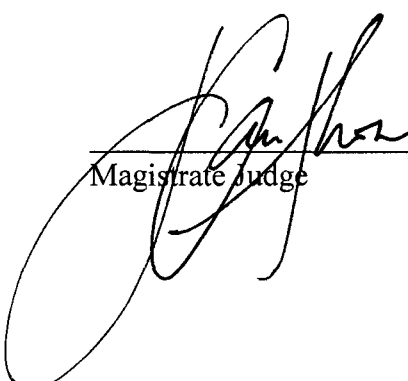
da

photographs documents and billing statements in their custody pertaining to Gerald Owen Blakely DOB [REDACTED] DOI: 10/16/10 to the Ada County Prosecuting Attorney's Office in response to a subpoena issued by the Prosecution in this case. The records may be generally provided in the manner set out in Idaho Code §9-420, except that the said records are to be made available for pickup by an agent of the Ada County Prosecuting Attorney's Office or law enforcement within three business days of the service of the subpoena, rather than be delivered to the Court.

This Order is also intended to require that personal health information, other than just the described written medical records, such as information known to employees or representatives of St. Alphonsus Regional Medical Center also be provided to the prosecution or criminal defense by interview when asked for and that those employees or representatives of St. Alphonsus Regional Medical Center testify if required.

Any questions regarding said records should be directed to the Ada County Prosecuting Attorney's Office, (208) 287-7700.

IT IS SO ORDERED this 15 day of Dec. 2010.

  
\_\_\_\_\_  
Magistrate Judge

## ADA COUNTY MAGISTRATE MINUTES

Lee Odell Fair CR-FE-2010-0020120

DOB: [REDACTED]

Scheduled Event: Preliminary Tuesday, December 28, 2010 08:30 AM

Judge: Theresa Gardunia

Clerk: H. MANLEY

Interpreter: \_\_\_\_\_

Prosecuting Agency: ☒ AC ☐ BC ☐ EA ☐ GC ☐ MC

Pros: B. Ferguson

PD

Attorney: A. Cosho

• 1 I18-907(1)(A) Battery-Aggravated (Cause Great Bodily Harm or Disability) F

13314 Case Called Defendant: ☒ Present ☐ Not Present ☒ In Custody

☐ Advised of Rights ☐ Waived Rights ☐ PD Appointed ☐ Waived Attorney

☐ Guilty Plea / PV Admit ☐ N/G Plea ☐ Advise Subsequent Penalty

☐ Bond \$ 50,000.- ☐ ROR ☐ Pay / Stay ☐ Payment Agreement

☐ In Chambers ☐ PT Memo ☐ Written Guilty Plea ☐ No Contact Order

Blo Judge Bail

1-14-11 @ 9

Commitment Signed

Finish ( ) Release Defendant

000027

CR-FE-2010-0020120



Session: Gardunia122810  
Session Date: 2010/12/28  
Judge: Hay, Charles  
Reporter:

Division: MC  
Session Time: 08:30

Courtroom: CR204

Clerk(s):  
Manley, Heidi

State Attorneys:  
Ferguson, Brent A.

Public Defender(s):  
Cosho, Anne

Prob. Officer(s):

Court interpreter(s):

---

Case ID: 0003

Case Number: Fe-10-20120  
Plaintiff:  
Plaintiff Attorney:  
Defendant: Fair, Lee Odell  
Co-Defendant(s):  
Pers. Attorney:  
State Attorney: Ferguson, Brent A.  
Public Defender: Cosho, Anne

2010/12/28

13:34:14 - Operator  
Recording:  
13:34:14 - New case  
Fair, Lee Odell  
13:34:18 - State Attorney: Ferguson, Brent A.  
13:34:30 - Public Defender: Cosho, Anne  
13:34:38 - Defendant: Fair, Lee Odell  
defendant present, in custody.  
13:34:40 - Judge: Hay, Charles  
13:36:08 - Other: Blakley, Jerald  
Sworn.  
13:36:10 - State Attorney: Ferguson, Brent A.  
Direct examination of witness.  
13:36:13 - State Attorney: Ferguson, Brent A.  
Oct 15/16, 2010  
13:36:25 - Other: Blakley, Jerald  
On Emerald Street  
13:37:04 - Other: Blakley, Jerald  
We were there with some co-workers, mingling and a friend of  
mine was playing  
13:37:18 - Other: Blakley, Jerald  
pool with lee and his 2 friends  
13:37:43 - Other: Blakley, Jerald

Lee and his 2 buddies were waiting for us. I guess they were playing for  
13:37:57 - Other: Blakley, Jerald  
money. i didn't know anything of it  
13:39:47 - Other: Blakley, Jerald  
Identifies the defendant  
13:40:25 - Other: Blakley, Jerald  
After I woke up, there was comotion, they took me to the hospital  
13:42:24 - State Attorney: Ferguson, Brent A.  
Marks States #1  
13:42:29 - State Attorney: Ferguson, Brent A.  
Moves to admit States #1  
13:42:37 - Judge: Hay, Charles  
States #1 is admitted  
13:43:22 - Other: Blakley, Jerald  
he was calm when he was holding me  
13:43:44 - Public Defender: Cosho, Anne  
Objection  
13:43:46 - Judge: Hay, Charles  
Sustained  
13:44:05 - Other: Blakley, Jerald  
he showed no emotion, cold as ice  
13:44:29 - Public Defender: Cosho, Anne  
Cross-examination of the witness.  
13:45:27 - Other: Blakley, Jerald  
Work at Six States  
13:45:55 - Other: Blakley, Jerald  
arrived in the suburban  
13:47:38 - Other: Blakley, Jerald  
We all left the bar at the same time, 1 1:30  
13:49:53 - Other: Blakley, Jerald  
I said I'm a lover not a fighter, i said it to everyone  
13:52:48 - Other: Blakley, Jerald  
I took a step and he came around and punched me  
13:52:59 - Other: Blakley, Jerald  
it was faster than 5 minutes from leaving the bar  
13:53:11 - Other: Blakley, Jerald  
i don't know if anyone called the police  
13:54:14 - Other: Blakley, Jerald  
I telephoned him the monday or Tuesday after it happened. i  
asked him why he  
13:54:32 - Other: Blakley, Jerald  
hit an old man  
13:54:39 - Other: Blakley, Jerald  
13:56:51 - Other: Blakley, Jerald  
I knew who hit me  
13:57:05 - Other: Blakley, Jerald  
Nothing further, witness steps down.  
13:58:09 - Other: Thompson, Shelly  
Sworn.  
13:58:10 - State Attorney: Ferguson, Brent A.  
Direct examination of witness.  
13:58:11 - State Attorney: Ferguson, Brent A.  
Oct 16th 2010  
13:58:22 - Other: Thompson, Shelly  
We were at Dinos  
13:59:02 - Other: Thompson, Shelly

next thing I knew, Jerry was on the ground  
13:59:19 - Other: Thompson, Shelly  
I saw who punched jerry  
13:59:27 - Other: Thompson, Shelly  
Identifies the defendant as the man that punched Jerald  
14:01:08 - Other: Thompson, Shelly  
It was just one punch  
14:01:19 - Public Defender: Cosho, Anne  
Cross-examination of the witness.  
14:02:06 - Other: Thompson, Shelly  
I drove that night, I wasn't drinking  
14:02:50 - Other: Thompson, Shelly  
I thought we were leaving and the next thing I know  
14:03:01 - Other: Thompson, Shelly  
It was 12/12:30  
14:03:15 - Other: Thompson, Shelly  
jerry and joel exited the bar first  
14:04:01 - Other: Thompson, Shelly  
there were maybe 5-7 people  
14:05:37 - Other: Thompson, Shelly  
there was a punch and Jerry is on the ground  
14:08:07 - Other: Thompson, Shelly  
I don't know why no one called the police  
14:09:26 - Other: Thompson, Shelly  
It was from the witness chair to the holding cell door  
14:10:37 - Other: Thompson, Shelly  
I can't remember, there was a lot going on  
14:12:25 - Other: Thompson, Shelly  
Nothing further, witness steps down.  
14:12:45 - State Attorney: Ferguson, Brent A.  
State Rests  
14:12:53 - Judge: Hay, Charles  
Finds enough Probable Cause to bind over  
14:13:25 - Judge: Hay, Charles  
bound Over to Judge Bail 1-14-2011 at 9:30 am Commitment Si  
gned  
14:14:00 - Judge: Hay, Charles  
state Signs for exhibits  
14:14:07 - Operator  
Stop recording:

---

FILED 12/28/10 AT 2:15 A.  
J. DAVID NAVARRO,  
CLERK OF THE DISTRICT COURT  
BY AManey  
Deputy

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff,

vs. Lee Adell Fair

Defendant.

CASE NO. FELD-20120

NOTICE OF:

☒ Ada ☐ Boise ☐ GC ☐ Meridian

☐ FURTHER PROCEEDINGS

BEFORE JUDGE \_\_\_\_\_

☐ TRIAL SET COURT/JURY

BEFORE JUDGE \_\_\_\_\_

☐ PRELIMINARY HEARING RESET

BEFORE JUDGE \_\_\_\_\_

☒ DISTRICT COURT ARRAIGNMENT

BEFORE JUDGE Bail

NOTICE IS HEREBY GIVEN to the above-named Defendant that proceedings in this case have been continued until 9:30 o'clock a.m. on 1-14-11, in the courtroom at the

ADA COUNTY COURTHOUSE, 200 W. FRONT STREET, BOISE, ID 83702

You must appear as scheduled above. Failure to do so will result in a warrant being issued for your arrest.

J. DAVID NAVARRO, Clerk

DATED 12/28/10

By: AManey  
Deputy Clerk

I hereby certify that copies of this Notice were served as follows:

Defendant:  
Hand Delivered ☒ Mailed ☐  
Clerk AManey Date \_\_\_\_\_

Signature Lee Adell Fair  
Address \_\_\_\_\_

Defense Attorney:  
Hand Delivered ☐ Mailed ☐  
Clerk \_\_\_\_\_ Date \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Prosecutor ☒ - Interdepartmental Mail  
Public Defender ☐ - Interdepartmental Mail

Clerk \_\_\_\_\_ Date \_\_\_\_\_  
Clerk \_\_\_\_\_ Date \_\_\_\_\_

000031

DEC 28 2010

J. DAVID NAVARRO, Clerk  
By H. MANLEY  
DEPUTY

**GREG H. BOWER**

Ada County Prosecuting Attorney

James M. Vavrek

Deputy Prosecuting Attorney

200 W. Front Street, Room 3191

Boise, Idaho 83702

Phone: 287-7700

Fax: 287-7709

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF

THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff,

vs.

LEE ODELL FAIR,

Defendant.

Case No. CR-FE-2010-0020120

**COMMITMENT**

Defendant's DOB: [REDACTED]

Defendant's SSN: [REDACTED]

**THE ABOVE NAMED DEFENDANT**, LEE ODELL FAIR, having been brought before this Court for a Preliminary Examination on the 28 day of Dec, 2010, on a charge that the Defendant on or about the 16th day of October 2010, in the County of Ada, State of Idaho, did commit the crime of: AGGRAVATED BATTERY, FELONY, I.C. §18-903(a), 907(a) as follows:

That the Defendant, LEE ODELL FAIR, on or about the 16th day of October, 2010, in the County of Ada, State of Idaho, did willfully and unlawfully use force and/or violence upon the person of Gerald Owen Blakely causing great bodily harm, to-wit: by punching Gerald Blakely in the face and breaking his jaw and/or causing his lip to be lacerated.

The Defendant having so appeared and having had/having waived preliminary examination, the Court sitting as a Committing Magistrate finds that the offense charged as set forth has been committed in Ada County, Idaho, and that there is sufficient cause to believe that the Defendant is guilty of committing the offense as charged.

**WHEREFORE, IT IS ORDERED** that the Defendant be held to answer to the District Court of the Fourth Judicial District of the State of Idaho, in and for the County of Ada, to the charge herein set forth. Bail is set in the sum of \$ 50,000<sup>00</sup>.

**DATED** this 28 day of Dec., 2010.

Charles J. Hy  
MAGISTRATE

147  
Hm  
1/14  
930

NO. \_\_\_\_\_  
A.M. 10 FILED P.M. \_\_\_\_\_

JAN 03 2011

J. DAVID NAVARRO, Clerk  
By NATALIE FARACA  
DEPUTY

**GREG H. BOWER**  
Ada County Prosecuting Attorney  
200 W. Front Street, Room 3191  
Boise, Idaho 83702  
Phone: 287-7700  
Fax: 287-7709

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

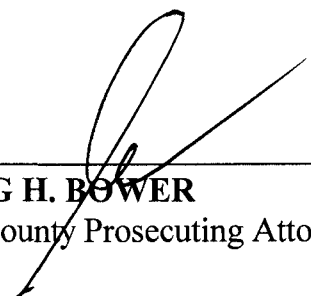
STATE OF IDAHO,	)	
	)	
Plaintiff,	)	<b>Case No. CR-FE-2010-0020120</b>
	)	
vs.	)	<b>I N F O R M A T I O N</b>
	)	
LEE ODELL FAIR,	)	Defendant's DOB [REDACTED]
	)	Defendant's SSN [REDACTED]
Defendant.	)	
_____	)	

**GREG H. BOWER**, Prosecuting Attorney, in and for the County of Ada, State of Idaho, who in the name and by the authority of the State, prosecutes in its behalf, comes now into District Court of the County of Ada, and states that LEE ODELL FAIR is accused by this Information of the crime of: AGGRAVATED BATTERY, FELONY, I.C. §18-903(a), 907(a) which crime was committed as follows:

That the Defendant, LEE ODELL FAIR, on or about the 16th day of October, 2010, in the County of Ada, State of Idaho, did willfully and unlawfully use force and/or violence

upon the person of Gerald Owen Blakely causing great bodily harm, to-wit: by punching Gerald Blakely in the face and breaking his jaw and/or causing his lip to be lacerated.

All of which is contrary to the form, force and effect of the statute in such case and against the peace and dignity of the State of Idaho.



---

**GREG H. BOWER**  
Ada County Prosecuting Attorney



# Ada County Mugshot - Prosecutor's Office



User: PRWOODSL



Photo Taken: 2010-11-25 02:40:00

Name: FAIR, LEE ODELL

Case #: CR-FE-2010-0020120

LE Number: 627918

DOB

Height: 600

SSN

Weight: 160

Drivers License Number:

Drivers License State:

Sex: M Race: W Eye Color: GRN Hair Color: BRO Facial Hair:

Marks: CHEST

Scars:

Tattoos:

147  
APR 12  
11/14 9:30

FILED  
P.M.  
JAN 10 2011  
CHRISTOPHER D. RICH, Clerk  
By SCARLETT RAMIREZ  
DEPUTY

**GREG H. BOWER**  
Ada County Prosecuting Attorney

**Gabriel M. Haws**  
Deputy Prosecuting Attorney  
200 W. Front Street, Room 366  
Boise, Idaho 83702  
Phone: 287-7700  
Fax: 287-7709

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,	)	
	)	
Plaintiff,	)	Case No. CR-FE-2010-0020120
	)	
vs.	)	MOTION TO AMEND NO
	)	CONTACT ORDER
LEE ODELL FAIR,	)	
	)	
Defendant.	)	
_____	)	

COMES NOW, Gabriel M. Haws, Ada County Deputy Prosecuting Attorney,  
and moves the court for an order amending the no contact order entered in the above  
entitled case to include Shelly Thompson and Rachel Freeland, who the victim's  
common law wife and daughter in law for the following reasons:

- 1) Shelly Thompson was at the side of the named victim when the aggravated  
battery occurred. She is the victim's common law wife.


*[Handwritten signature]*

- 2) Rachel Freeland is the victim's daughter in law. She has acquaintances who are friends with the Defendant. On the same day of the preliminary hearing she received contact or message via Facebook from a friend of the Defendants. In that message the facts of this case were discussed. She felt threatened from that message. Rachel Freeland lives with Shelly Thompson and the named victim.
- 3) Defendant is a documented member of the Severely Violent Criminals street and prison gang. Multiple members of this gang are convicted felons for their violent attacks on individuals. This gang has a very violent reputation and has been known to threaten or intimidate witnesses.

For the foregoing reasons the State requests this Court enter and order amending the No Contact in this above entitled case to include Shelly Thompson and Rachel Freeland.

**RESPECTFULLY SUBMITTED** this <sup>10<sup>th</sup></sup> day of January 2011.

**Greg H. Bower**  
Ada County Prosecuting Attorney

  
\_\_\_\_\_  
By: Gabriel M. Haws  
Ada County Deputy Prosecuting Attorney

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 6<sup>th</sup> day of January 2011, a true and correct copy of the foregoing Motion to Amend No Contact Order was served to **Brian Marx 200 W. Front St. Ste. 1107 Boise ID 83702**, in the manner noted below:

- ☐ By depositing copies of the same in the United States mail, postage prepaid, first class.
- ☒ By depositing copies of the same in the Interdepartmental Mail.
- ☐ By informing the office of said individual(s) that said copies were available for pickup at the Office of the Ada County Prosecutor.
- ☐ By faxing copies of the same to said attorney(s) at the facsimile number:

\_\_\_\_\_

\_\_\_\_\_

JAN 10 2011

**GREG H. BOWER**  
Ada County Prosecuting Attorney

**CHRISTOPHER D. RICH**, Clerk  
By **SCARLETT RAMIREZ**  
DEPUTY

**Gabriel M. Haws**  
Deputy Prosecuting Attorney  
200 W. Front Street, Room 3191  
Boise, Id. 83702  
Telephone: (208) 287-7700

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF

THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,

Plaintiff,

vs.

LEE ODELL FAIR

Defendant.

)  
)  
)  
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)  
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)  
)

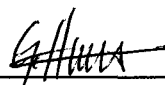
**Case No. CR-FE-2010-0020120**

**NOTICE OF HEARING**

**TO: Brian Marx**, his Attorney of Record, you will please take notice that on the 14th day of January 2011, at the hour of 9:30am of said day, or as soon thereafter as counsel can be heard, Deputy Prosecuting Attorney Gabriel M. Haws will move this Honorable Court for a hearing regarding the State's Motion to Amend No Contact Order in the above-entitled action.

**DATED** this 10<sup>th</sup> day of January 2011.

**GREG H. BOWER**  
Ada County Prosecuting Attorney

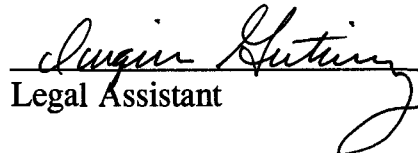
  
By: Gabriel M. Haws  
Deputy Prosecuting Attorney

## CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on this 10<sup>th</sup> day of January 2011, a true and correct copy of the foregoing State's Notice of Hearing to Amend No Contact Order was served to **Brian Marx, 200 W. Front St. Ste. 1107 Boise, ID 83702**, in the manner noted below:

- ☐ *By depositing copies of the same in the United States mail, postage prepaid, first class.*
- ☒ *By depositing copies of the same in the Interdepartmental Mail.*
- ☐ *By informing the office of said individual(s) that said copies were available for pickup at the Office of the Ada County Prosecutor.*
- ☐ *By faxing copies of the same to said attorney(s) at the facsimile number:*

\_\_\_\_\_

  
Legal Assistant

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

DEBORAH A. BAIL  
DISTRICT JUDGE

Date:

Jan 14, 2011

COURT MINUTES

STATE OF IDAHO,

Plaintiff,

vs.

Lee Fair  
Defendant,

P/C

Case No. CR10 0020120

INITIAL ARRAIGNMENT

Appearances:

Dale Haws

Deputy Prosecuting Attorney

Counsel for the State

Brian Morx

Deputy Public Defender

Counsel for the Defendant

Interpreter

THIS TIME SET FOR INITIAL ARRAIGNMENT:

- ☒ The Court informed the defendant of the charges filed being a felony and of the possible penalties which could be imposed.
- ☒ The Court advised the defendant of the right to counsel at public expense in all proceedings of this Court.
- ☒ Public Defender reaffirmed/appointed to represent the defendant.
- ☐ Mr. \_\_\_\_\_ appearing as counsel of record for the defendant.
- ☐ Right to counsel waived by the defendant.
- ☒ The Court advised the defendant of the right to appeal from any judgment entered by this Court, to be represented by counsel in said appeal and of payment of costs incurred in said appeal at public expense, and of the appeal time being forty-two (42) days.
- ☒ True copy of the Information delivered to the defendant and counsel.
- ☒ True Name.
- ☐ Defendant's corrected name is \_\_\_\_\_.

Mr Haws argues Mo/ amend WCO to add more people.  
Def has no obj: Ct allows. Mr Haws submit amended 0000420  
at review & sign. State will file info fast #

- (X) Formal reading of the Information waived by the Defendant.
- ( ) The Court read the Information to the Defendant.
- (X) The Court advised the defendant of the right to a trial by jury, of the different charge(s) set forth in the Information, of the time, not less than one day that could be taken before entering a plea and the right to remain silent.
- (X) The Court advised the defendant that if a plea of guilty was entered to a charge, the presumption of innocence, the constitutional right to a trial by jury, the right to confront accusers, the privilege against self-incrimination and the right of self defense would be waived. All legal and factual defenses and any defects in the State's case would be waived.
- (X) Upon the request of the defendant, the Court continued this matter until Jan 24 @ 1:30 for entry of a plea.
- ( ) Statutory time waived by the defendant.
- ( ) In answer to the Court, the defendant entered a plea of "Not Guilty".
- ( ) There being no objection by the defendant, the Court set this case for trial before the Court and a jury on \_\_\_\_\_ at \_\_\_\_\_ m.
- ( ) In answer to the Court, the defendant entered a plea of "Guilty".
- ( ) Defendant sworn and examined regarding the plea.
- ( ) The defendant indicated an understanding of the possible penalties and that no promises of leniency or threats had been made to induce the plea.
- ( ) The defendant fully understands that BY PLEADING GUILTY the presumption of innocence, the constitutional right to a trial by jury, the right to confront accusers, the privilege against self incrimination and the right of self defense are waived. All legal and factual defenses and any defects in the State's case are waived.
- ( ) The Court accepts the defendant's plea of "Guilty".
- ( ) The Court set aside the defendant's plea of "Guilty" and directed the Clerk to enter a plea of "Not Guilty" on behalf of the defendant.
- ( ) Request and Stipulation for Discovery submitted.



- ( ) Compliance date set for \_\_\_\_\_.
- ( ) The Court ordered a presentence report and continued this matter until \_\_\_\_\_ at \_\_\_\_\_ for said report and disposition.
- (☒) Defendant remanded to the custody of the Sheriff.
- ( ) Defendant continued on bond.
- ( ) Defendant continued on own recognizance.

Reporter: Susan Gambee  
Clerk: Carol Luedtka

JAN 14 2011

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

CHRISTOPHER D. RICH, Clerk  
By CAROL LUEDTKA  
DEPUTY

STATE OF IDAHO, )  
Plaintiff, )  
vs. )  
FAIR LEE ODELL )  
DOB [REDACTED] )  
SSN [REDACTED] )  
Defendant. )

Case No. CRFE20100020120  
Reference No. \_\_\_\_\_

NO CONTACT ORDER

☒ AMENDED

DR # 10-026725  
☒ Ada ☐ Boise ☐ GC ☐ Meridian

The above-entitled matter having come before the Court, and good cause appearing therefor,

IT IS HEREBY ORDERED that the above-named defendant shall not contact (including: in person or through another person, or in writing or e-mail, or by telephone, pager, or facsimile) or attempt to contact, harass, follow, communicate with, or knowingly remain within 100 feet of: BLAKLEY GERALD OWEN, Shelly Thompson, Rachel Freeland.

Exceptions are:

- ☒ no exceptions  
☐ to contact by telephone between \_\_\_\_\_ m. and \_\_\_\_\_ m. on \_\_\_\_\_  
\_\_\_\_\_ for the following purposes: \_\_\_\_\_  
☐ to participate in counseling/mediation  
☐ to provide for the exchange of children between the parties through \_\_\_\_\_  
☐ to retrieve personal necessities from the residence/protected address through \_\_\_\_\_  
☐ to meet with or through attorneys and/or during legal proceedings  
☐ to respond to emergencies involving the natural or adopted children of both parties  
☐ other: \_\_\_\_\_

IT IS FURTHER ORDERED that the defendant named herein shall not go within 300 yards of the above-named person's residence or workplace as set forth below (provide this information only if requested by prosecution):

Residence Address \_\_\_\_\_

Work Address \_\_\_\_\_

A VIOLATION OF THIS ORDER IS A SEPARATE CRIME under Idaho Code § 18-920, for which no bail will be set until an appearance before a judge. A first and second conviction for the crime of violation of a no contact order is a misdemeanor and is punishable by a fine not exceeding one thousand dollars (\$1,000) or by imprisonment in the county jail not to exceed one (1) year, or both. A third conviction for violation of a no contact order within five (5) years is a felony and is punishable by a fine not exceeding five thousand dollars (\$5,000) or by imprisonment in the state prison not to exceed five (5) years, or both. Further, any such violation of this order may result in the increase, revocation, or modification of the bond set in the underlying charge for which this no contact order was imposed.

If there is more than one domestic violence protection order in place, the most restrictive provision will control any conflicting terms of any other civil or criminal protection order.

This order may subject you to Federal prosecution under 18 U.S. Code § 922 if you possess, receive, or transport a firearm.

THIS ORDER CAN BE MODIFIED ONLY BY A JUDGE AND WILL EXPIRE AT 11:59 p.m. ON \_\_\_\_\_  
OR UPON DISMISSAL OF THIS CASE, WHICHEVER FIRST OCCURS.

Defendant \_\_\_\_\_ Date 1-14-11

Judge \_\_\_\_\_ Date \_\_\_\_\_

Served by: [Signature] # 815

Date served: 1-14-11

NO CONTACT ORDER ☐ FILE ☐ ACSO ☐ PROSECUTOR

[REV 6-2010]

000045

147  
P  
1/24  
1:30

**ADA COUNTY PUBLIC DEFENDER**  
**Attorneys for Defendant**  
**200 West Front Street, Suite 1107**  
**Boise, Idaho 83702**  
**Telephone: (208) 287-7400**  
**Facsimile: (208) 287-7409**

NO. \_\_\_\_\_  
A.M. 16 FILED \_\_\_\_\_  
P.M. \_\_\_\_\_

**JAN 18 2011**

**CHRISTOPHER D. RICH, Clerk**  
**By LANI BROXSON**  
**DEPUTY**

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF**  
**THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

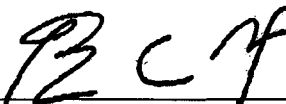
**STATE OF IDAHO,**  
**Plaintiff**  
  
**vs.**  
**LEE ODELL FAIR,**  
**Defendant.**

**Case No. CR-FE-2010-0020120**

**MOTION FOR BOND REDUCTION**

**COMES NOW**, LEE ODELL FAIR, the above-named defendant, by and through counsel BRIAN C MARX, Ada County Public Defender's office, and moves this Court for its ORDER reducing bond in the above-entitled matter upon the grounds that the bond is so unreasonably high that the defendant, who is an indigent person without funds, cannot post such a bond, and for the reason that the defendant has thereby been effectively denied their right to bail.

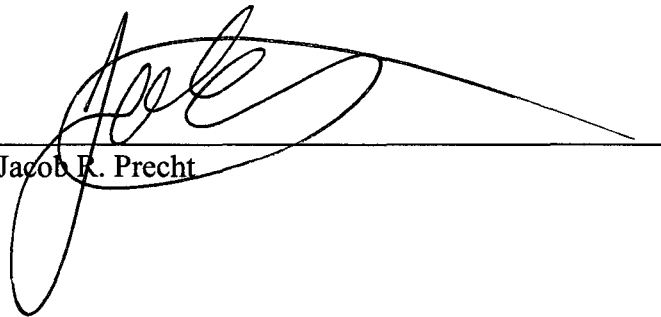
**DATED**, Friday, January 14, 2011.

  
\_\_\_\_\_  
**BRIAN C. MARX**  
**Attorney for Defendant**

**CERTIFICATE OF MAILING**

**I HEREBY CERTIFY**, that on Friday, January 14, 2011, I mailed (served) a true and correct copy of the within instrument to:

**GABRIEL M. HAWS**  
**Ada County Prosecutor's Office**  
**Interdepartmental Mail**

  
\_\_\_\_\_  
**Jacob R. Precht**

 **MOTION FOR BOND REDUCTION**

000046

**ADA COUNTY PUBLIC DEFENDER**  
**Attorneys for Defendant**  
**200 West Front Street, Suite 1107**  
**Boise, Idaho 83702**  
**Telephone: (208) 287-7400**  
**Facsimile: (208) 287-7409**

NO. \_\_\_\_\_  
A.M. 10 FILED P.M. \_\_\_\_\_

**JAN 18 2011**

**CHRISTOPHER D. RICH, Clerk**  
**By LANI BROXSON**  
**DEPUTY**

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

**STATE OF IDAHO,**  
**Plaintiff**

**vs.**

**LEE ODELL FAIR,**  
**Defendant.**

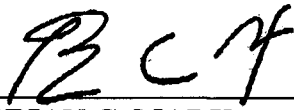
**Case No. CR-FE-2010-0020120**

**NOTICE OF HEARING**

**TO: THE STATE OF IDAHO, Plaintiff, and to GABRIEL HAWS:**

**YOU, AND EACH OF YOU,** are hereby notified that the defendant will call for a hearing on MOTION FOR BOND REDUCTION, now on file in the above-entitled matter, on Monday, January 24, 2011, at the hour of 01:30 PM , in the courtroom of the above-entitled court, or as soon thereafter as counsel may be heard.

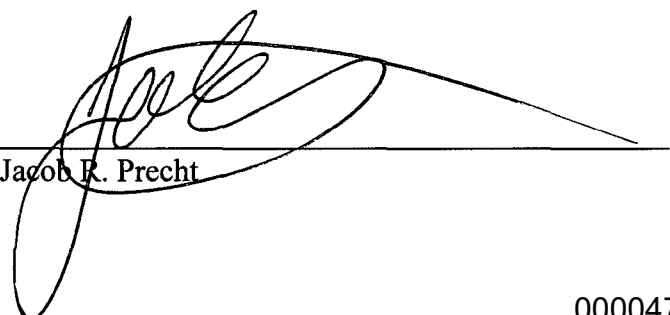
**DATED, Friday, January 14, 2011.**

  
\_\_\_\_\_  
**BRIAN C. MARX**  
**Attorney for Defendant**

**CERTIFICATE OF MAILING**

**I HEREBY CERTIFY,** that on Friday, January 14, 2011, I mailed (served) a true and correct copy of the within instrument to:

**GABRIEL M. HAWS**  
**Ada County Prosecutor's Office**  
**Interdepartmental Mail**

  
\_\_\_\_\_  
**Jacob R. Precht**

**NOTICE OF HEARING**

**000047**

THE STATE OF IDAHO,  
Plaintiff,  
vs.  
FAIR LEE ODELL  
Defendant

NO. \_\_\_\_\_ FILED \_\_\_\_\_  
A.M. 930 P.M. \_\_\_\_\_

**CHRISTOPHER D. RICH, Clerk**  
**By CHERYL WADAMS**  
**Court DEPUTY**

\\countyb\DFSShare\INSTALLS\Crystal Reports\Analyst4\Sheriff\SHF BondOutReceipt.rpt - Modified: 06/28/2010

CRIMINAL CASE FILE MEMO

*EOP + Mo/Info Part II*

DATE: Jan 24, 2011 DEFENDANT PRESENT ☒ Y/N CUSTODY/BOND

FROM: Judge Deborah Bail/ Carol Luedtka/ Susan Gambee

RE: State v Lee Fair CASE NO. CR100020120

Counsel for the State Jeff White

Counsel for the Defendant Brian Marx

Interpreter \_\_\_\_\_

Plea Bargain NG

*PTC March 14 @ 1:30  
JT March 24 @ 9:30  
Disc Feb 15 2011*

*State has Ct handed on Info Part II  
Ct arraigns def on Info Part II*

Motion for Bond Reduction – circle/ Not Advanced/ Withdrawn Denied Granted

Additional Remarks (include anything the defendant or either counsel was told) \_\_\_\_\_

**JAN 24 2011**

CHRISTOPHER D. RICH, Clerk  
By CAROL LUEDTKA  
DEPUTY

**GREG H. BOWER**

Ada County Prosecuting Attorney

**Jeffrey S. White**

Deputy Prosecuting Attorney

200 W. Front Street, Room 3191

Boise, Idaho 83702

Phone: 287-7700

Fax: 287-7709

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF

THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff,

vs.

LEE ODELL FAIR,

Defendant.

Case No. CR-FE-2010-0020120

**I N F O R M A T I O N**

**P A R T   I I**

Defendant's DOB: [REDACTED]

Defendant's SSN: [REDACTED]

**GREG H. BOWER**, Prosecuting Attorney in and for the County of Ada, State of Idaho, who, in the name of and by the authority of said State, prosecutes in its behalf, in proper person, comes now before the District Court of the Fourth Judicial District of the State of Idaho, in and for the County of Ada, and given the Court to understand and to be further informed that, as PART II of the Information on file herein, the Defendant, LEE

ODELL FAIR, is a persistent violator of the law, in that the Defendant has heretofore been convicted of two or more felonies, to-wit: I. POSSESSION OF A CONTROLLED SUBSTANCE, a Felony, in case number CR-FE-2009-0002702 and II. ELUDING POLICE OFFICERS and GRAND THEFT, both felonies, in case number H0300670.

I


That the said Defendant, LEE ODELL FAIR, on or about the 25th day of August, 2009, was convicted of the crime of POSSESSION OF A CONTROLLED <sup>Sub. 4</sup> a FELONY, in the County of Ada, State of Idaho, by virtue of that certain Judgment of Conviction made and entered by the Honorable Judge Ronald J. Wilper in case number CR-FE-2009-0002702.

*Lee Odell Fair Amended 3/28/2011*

That the said Defendant, ~~RANDALL DEAN CRISP~~, on or about the 23rd day of July, 2003, was convicted of the crime of GRAND THEFT, a Felony, in the County of Ada, State of Idaho, by virtue of that certain Judgment of Conviction made and entered by the Honorable Judge Michael R. McLaughlin in case number H0300670.

**WHEREFORE**, the said Defendant, having been convicted previously of two (2) or more felonies, should be considered a persistent violator of the law, and should be sentenced accordingly pursuant to Idaho Code §19-2514, upon conviction of the charges contained in PART I of the Information.

**DATED** This 11<sup>th</sup> day of January, 2011.

  
\_\_\_\_\_  
**GREG H. BOWER**  
Ada County Prosecuting Attorney



## Ada County Mugshot - Prosecutor's Office



User: PRHEBELE



Photo Taken: 2010-11-25 02:40:00

Name: FAIR, LEE ODELL

Case #: CR-FE-2010-0020120

LE Number: 627918

DOB: [REDACTED]

SSN: [REDACTED]

Height: 600

Weight: 160

Drivers License Number:

Drivers License State:

Sex: M Race: W Eye Color: GRN Hair Color: BRO Facial Hair:

Marks: CHEST

Scars:

Tattoos:

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

DEBORAH A. BAIL  
DISTRICT JUDGE

January 25th, 2011

**THE STATE OF IDAHO,**  
Plaintiff,

Case No. CR-FE-2010-0020120

vs.

**LEE ODELL FAIR,**  
Defendant.

NOTICE OF TRIAL SETTING

**THIS IS YOUR NOTICE OF TRIAL SETTING**

The above-entitled matter has been set for trial before the Court and a jury for:

Pretrial Conference.....Monday, March 14, 2011 @ 01:30 PM  
Judge: Deborah Bail

Jury Trial.....Thursday, March 24, 2011 @ 09:30 AM  
Judge: Deborah Bail

- ▶ All requested jury instructions must be submitted to the court five (5) days prior to trial.
- ▶ Any motion to exclude a witness who was a victim of the alleged crime must be made two (2) weeks prior to trial.
- ▶ Discovery compliance date is set for, February 15, 2011.
- ▶ Notice is hereby given, pursuant to I.C.R. 25(a)(6) that an alternate judge may be assigned to preside over the trial of this case. The following is a list of potential alternate judges:

Hon. Phillip M. Becker  
Hon. G.D. Carey  
Hon. Dennis Goff  
Hon. George R. Reinhart, III  
Hon. Nathan Higer  
Hon. Daniel C. Hurlbutt, Jr.  
Hon. Linda Copple-Trout

Hon. James Judd  
Hon. Duff McKee  
Hon. Daniel Meehl  
Hon. Barry Wood  
Hon. W. H. Woodland  
Hon. Ronald Schilling  
Hon. Kathryn A. Sticklen  
Any Fourth District Judge

Unless a party has previously exercised their right to disqualification without cause under Rule 25(a)(1), each party shall have the right to file one (1) motion for disqualification without cause as to any alternate judge not later than fourteen (14) days after service of this written notice listing the alternate judge.

Copies to Counsel:

ADA COUNTY PROSECUTORS OFFICE

ADA COUNTY PUBLIC DEFENDERS OFFICE

Notice of Trial

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3/14/13

A.M. \_\_\_\_\_ FILED \_\_\_\_\_ P.M. 4

JAN 25 2011

CHRISTOPHER D. RICH, Clerk  
By LANI BROXSON  
DEPUTY

**ADA COUNTY PUBLIC DEFENDER**  
**Attorneys for Defendant**  
**200 West Front Street, Suite 1107**  
**Boise, Idaho 83702**  
**Telephone: (208) 287-7400**  
**Facsimile: (208) 287-7409**

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF**  
**THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

**STATE OF IDAHO,**

**Plaintiff,**

**vs.**

**LEE ODELL FAIR,**

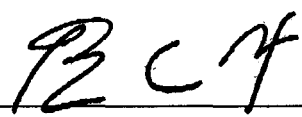
**Defendant.**

**Case No. CR-FE-2010-0020120**

**MOTION FOR PRELIMINARY**  
**HEARING TRANSCRIPT**

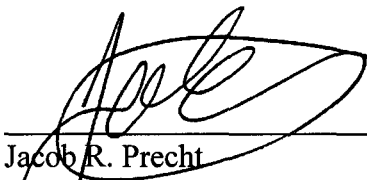
**COMES NOW**, LEE ODELL FAIR, the defendant above-named, by and through counsel BRIAN C. MARX, Ada County Public Defender's office, and moves this Court pursuant to ICR 5.1(d) for an ORDER providing typewritten transcripts of the preliminary hearing proceedings, which were held December 28, 2010, as they are essential and necessary for filing pretrial motions. The defendant, being indigent, also requests that the transcripts be prepared at the cost of Ada County, and as soon as possible.

**DATED**, Tuesday, January 25, 2011.

  
\_\_\_\_\_  
**BRIAN C. MARX**  
**Attorney for Defendant**

**CERTIFICATE OF MAILING**

**I HEREBY CERTIFY**, that on Tuesday, January 25, 2011, I mailed a true and correct copy of the within instrument to the Ada County Transcript Coordinator by placing said same in the Interdepartmental Mail.

  
\_\_\_\_\_  
Jacob R. Precht



**MOTION FOR PRELIMINARY HEARING TRANSCRIPT**

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NO. \_\_\_\_\_  
A.M. \_\_\_\_\_ FILED P.M. 1:30

JAN 26 2011

CHRISTOPHER D. RICH, Clerk  
By CAROL LUEDTKA  
DEPUTY

**BRIAN C. MARX**  
Deputy Public Defender

**ADA COUNTY PUBLIC DEFENDER**  
Attorneys for Defendant  
200 West Front Street, Suite 1107  
Boise, Idaho 83702  
Telephone: (208) 287-7400  
Facsimile: (208) 287-7409

**RECEIVED**  
**JAN 25 2011**  
**ADA COUNTY CLERK**

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

**STATE OF IDAHO,**

**Plaintiff,**

**vs.**

**LEE ODELL FAIR,**

**Defendant.**

**Case No. CR-FE-2010-0020120**

**ORDER FOR PRELIMINARY  
HEARING TRANSCRIPT**

For good cause appearing, this Court hereby grants the defendant's Motion for Preliminary Hearing Transcript. Pursuant to ICR 5.1(d), a typewritten transcript of the preliminary hearing held December 28, 2010, shall be prepared at the expense of Ada County, and as soon as possible.

**SO ORDERED AND DATED, this 26<sup>th</sup> day of January 2011.**

*Deborah A. Bail*

**DEBORAH A. BAIL**  
District Judge

**ORDER FOR PRELIMINARY HEARING TRANSCRIPT**

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CL  
cc: PA/PP/Rae Ann

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FEB 02 2011

CHRISTOPHER D. RICH, Clerk  
By RAE ANN NIXON  
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. CRFE-2010- 0020120
	)	
LEE O. FAIR,	)	NOTICE OF PREPARATION
	)	OF TRANSCRIPT
Defendant,	)	
_____	)	

An Order for transcript was filed in the above-entitled matter on January 26, 2011, and a copy of said Order was received by the Transcription Department on January 31, 2011. I certify the estimated cost of preparation of the transcript to be:

Type of Hearing: Preliminary Hearing  
Date of Hearing: December 28, 2010 Judge: Theresa Gardunia  
44 Pages x \$3.25 = \$143.00

In this case, the Ada County Public Defender's Office has agreed to pay for the cost of the transcript fee upon completion of the transcript.

The Transcription Department will prepare the transcript and file it with the Clerk of the District Court within thirty (30) days (or expedited days) from the date of this notice. The transcriber may make application to the District Judge for an extension of time in which to prepare the transcript.

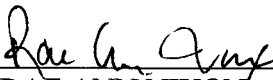
Date: February 2, 2011

Rae Ann Nixon  
RAE ANN NIXON  
Transcript Coordinator

CERTIFICATE OF MAILING

I certify that on February 2, 2011, a true and correct copy of the Notice of Preparation of Transcript was forwarded to Defendant's attorney of record, by first class mail, at:

Ada Co. Public Defender  
200 W. Front St. Ste. 1107  
Boise ID 83702  
BRIAN MARX

  
\_\_\_\_\_  
RAE ANN NIXON  
Transcript Coordinator

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NO. \_\_\_\_\_ FILED \_\_\_\_\_  
A.M. 9:30 P.M. \_\_\_\_\_  
**FEB 14 2011**  
CHRISTOPHER D. RICH, Clerk  
By NATALIE FARACA  
DEPUTY

**GREG H. BOWER**  
Ada County Prosecuting Attorney

**Jeffrey S. White**  
Deputy Prosecuting Attorney  
200 West Front Street, Room 3191  
Boise, Idaho 83702  
Phone: (208) 287-7700  
Fax: (208) 287-7709

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,	)	
	)	
Plaintiff,	)	<b>Case No. CRFE-2010-0020120</b>
vs.	)	
	)	<b>NOTICE OF INTENT TO</b>
LEE ODELL FAIR,	)	<b>IMPEACH DEFENDANT</b>
	)	<b>PURSUANT TO I.R.E. 609</b>
Defendant.	)	
	)	
	)	

**COMES NOW**, Jeffrey S. White, Deputy Prosecuting Attorney for the County of Ada, State of Idaho, and hereby notifies the Court and Counsel of the State's intent to impeach the Defendant with evidence of a prior felony conviction pursuant to I.R.E. 609 as follows should she choose to testify in the above-entitled case:

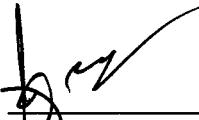
1. Judgment of Conviction for Grand Theft, Case No. H0300670, dated and signed on July 23, 2003, by the Honorable Judge McLaughlin (previously provided to defense counsel in the State's Discovery Response).

8

DATED this 11 day of February, 2011.

**GREG H. BOWER**

Ada County Prosecuting Attorney



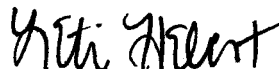
By: Jeffrey S. White

Deputy Prosecuting Attorney

### CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 11<sup>th</sup> day of February, 2011, a true and correct copy of the foregoing Notice of Intent to Impeach was served to **Brian C. Marx, Ada County Public Defender, 200 W. Front Street, Room 1107, Boise, ID 83702**, in the manner noted below:

- ☐ *By depositing copies of the same in the United States mail, postage prepaid, first class.*
- ☒ *By depositing copies of the same in the Interdepartmental Mail.*
- ☐ *By informing the office of said individual(s) that said copies were available for pickup at the Office of the Ada County Prosecutor.*
- ☐ *By faxing copies of the same to said attorney(s) at the facsimile number: \_\_\_\_\_*



Legal Assistant



**GREG H. BOWER**  
Ada County Prosecuting Attorney

**FEB 14 2011**

**CHRISTOPHER D. RICH**, Clerk  
By **NATALIE FARACA**  
DEPUTY

**Jeffrey S. White**  
Deputy Prosecuting Attorney  
200 West Front Street, Room 3191  
Boise, ID 83702  
Telephone: (208) 287-7700

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO, )

Plaintiff, )

vs. )

LEE ODELL FAIR, )

Defendant. )

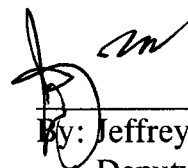
**Case No. CRFE2010-0020120**

**DISCOVERY  
RESPONSE TO COURT**

**COMES NOW**, Jeffrey S. White, Deputy Prosecuting Attorney, in and for the  
County of Ada, State of Idaho, and informs the Court that the State has complied with the  
Defendant's Request for Discovery.

**RESPECTFULLY SUBMITTED** this 11 day of February, 2011.

**GREG H. BOWER**  
Ada County Prosecuting Attorney



By: **Jeffrey S. White**  
Deputy Prosecuting Attorney

**FEB 14 2011**

**CHRISTOPHER D. RICH, Clerk**  
By **NATALIE FARACA**  
DEPUTY

**GREG H. BOWER**  
Ada County Prosecuting Attorney

**Jeffrey S. White**  
Deputy Prosecuting Attorney  
200 West Front Street, Room 3191  
Boise, ID 83702  
Telephone: (208) 287-7700

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

THE STATE OF IDAHO,	)	
	)	
Plaintiff,	)	<b>Case No. CRFE2010-0020120</b>
	)	
vs.	)	<b>REQUEST FOR DISCOVERY</b>
	)	
LEE ODELL FAIR,	)	
	)	
Defendant.	)	
_____	)	

**TO THE ABOVE NAMED DEFENDANT:**

**PLEASE TAKE NOTICE** that the undersigned, pursuant to Rule 16 of the Idaho Criminal Rules, requests Discovery and inspection of the following:

(1) Documents and Tangible Objects:

Request is hereby made by the prosecution to inspect and copy or photograph books, papers, documents, photographs, tangible objects or copies or portions thereof,

which are within the possession, custody or control of the defendant, and which the defendant intends to introduce in evidence at trial.

(2) Reports of Examinations and Tests:

The prosecution hereby requests the defendant to permit the State to inspect and copy or photograph any results or reports of physical or mental examinations and of scientific tests or experiments made in connection with this case, or copies thereof, within the possession or control of the defendant, which the defendant intends to introduce in evidence at the trial, or which were prepared by a witness whom the defendant intends to call at the trial when the results or reports relate to testimony of the witness.

(3) Defense Witnesses:

The prosecution requests the defendant to furnish the State with a list of names and addresses of witnesses the defendant intends to call at trial.

(4) Pursuant to Idaho Code Section 19-519, the State hereby requests that the defendant state in writing within ten (10) days any specific place or places at which the defendant claims to have been at the time of the alleged offense and the names and addresses of the witnesses upon whom he intends to rely to establish such alibi.

**DATED** this 11 day of February, 2011.

**GREG H. BOWER**  
Ada County Prosecuting Attorney

A handwritten signature in black ink, appearing to read 'Jeffrey S. White', is written over a horizontal line.

By: Jeffrey S. White  
Deputy Prosecuting Attorney

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 11<sup>th</sup> day of February, 2011, a true and correct copy of the foregoing Request for Discovery was served to **Brian Marx, Ada County Public Defender, 200 W. Front Street, Room 1107, Boise, ID 83702**, in the manner noted below:

- ☐ *By depositing copies of the same in the United States mail, postage prepaid, first class.*
- ☒ *By depositing copies of the same in the Interdepartmental Mail.*
- ☐ *By informing the office of said individual(s) that said copies were available for pickup at the Office of the Ada County Prosecutor.*
- ☐ *By faxing copies of the same to said attorney(s) at the facsimile number: \_\_\_\_\_*

  
Legal Assistant

147  
PTC  
3/14/11  
ADA COUNTY PUBLIC DEFENDER  
Attorneys for Defendant

BRIAN C. MARX, ISB #7694  
Deputy Public Defender  
200 West Front Street, Suite 1107  
Boise, Idaho 83702  
Telephone: (208) 287-7400  
Facsimile: (208) 287-7409

NO. \_\_\_\_\_  
A.M. \_\_\_\_\_ FILED P.M. 3

FEB 15 2011

CHRISTOPHER D. RICH, Clerk  
By SCARLETT RAMIREZ  
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff,

vs.

LEE ODELL FAIR,

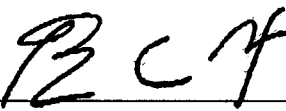
Defendant.

Case No. CR-FE-2010-0020120

DEFENDANT'S SECOND DISCOVERY  
RESPONSE TO COURT

COMES NOW, LEE ODELL FAIR, Defendant above-named, by and through counsel BRIAN C. MARX, Ada County Public Defender's office, and informs this Court that Defendant has complied with the State's request for discovery by serving upon JEFFREY S. WHITE, counsel for the state of Idaho, with Defendant's Addendum to Discovery on the above-filed date.

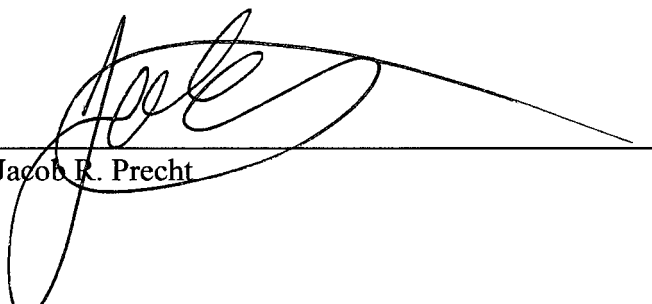
DATED, Monday, February 14, 2011.

  
BRIAN C. MARX  
Attorney for Defendant

CERTIFICATE OF MAILING

I HEREBY CERTIFY, that on Monday, February 14, 2011, I mailed (served) a true and correct copy of the within instrument to:

JEFFREY S. WHITE  
Ada County Prosecutor's Office  
Interdepartmental Mail

  
Jacob R. Precht

 DEFENDANT'S SECOND DISCOVERY RESPONSE TO COURT

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3/14  
1:30

FILED  
A.M. 15 P.M.

**FEB 28 2011**

**GREG H. BOWER**

Ada County Prosecuting Attorney

**CHRISTOPHER D. RICH, Clerk**  
By LANI BROXSON  
DEPUTY

**Jeffrey S. White**

Deputy Prosecuting Attorney

200 West Front Street, Room 3191

Boise, Idaho 83702

Phone: 287-7700

Fax: 287-7709

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF

THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,

Plaintiff,

vs.

LEE ODELL FAIR,

Defendant.

**Case No. CR-FE-2010-0020120**

**ADDENDUM TO  
DISCOVERY RESPONSE  
TO COURT**

**COMES NOW**, Jeffrey S. White, Deputy Prosecuting Attorney in and for Ada County, State of Idaho, and informs the Court that the State has submitted an Addendum to Response to Discovery.

**RESPECTFULLY SUBMITTED** this 25<sup>th</sup> day of February, 2011.

**GREG H. BOWER**

Ada County Prosecuting Attorney

Clifford A. Fair  
By: Jeffrey S. White  
Deputy Prosecuting Attorney

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NO. \_\_\_\_\_  
A.M. 9:40 FILED P.M. \_\_\_\_\_

**MAR 11 2011**

**CHRISTOPHER D. RICH, Clerk**  
By **NATALIE FARACA**  
DEPUTY

**GREG H. BOWER**  
Ada County Prosecuting Attorney

**Jeffrey S. White**  
Deputy Prosecuting Attorney  
200 West Front Street, Room 3191  
Boise, Idaho 83702  
Phone: 287-7700  
Fax: 287-7709

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF

THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,

Plaintiff,

vs.

LEE ODELL FAIR,

Defendant.

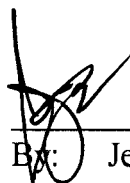
**Case No. CR-FE-2010-0020120**

**SECOND ADDENDUM TO  
DISCOVERY RESPONSE  
TO COURT**

**COMES NOW**, Jeffrey S. White, Deputy Prosecuting Attorney in and for Ada  
County, State of Idaho, and informs the Court that the State has submitted a Second  
Addendum to Response to Discovery.

**RESPECTFULLY SUBMITTED** this 10 day of March, 2011.

**GREG H. BOWER**  
Ada County Prosecuting Attorney



By: Jeffrey S. White  
Deputy Prosecuting Attorney

**SECOND ADDENDUM TO DISCOVERY RESPONSE TO COURT, (FAIR), Page**

000066



CRIMINAL CASE FILE MEMO

PTC

DATE: March 14, 2011 DEFENDANT PRESENT Y CUSTODY/BOND

FROM: Judge Deborah Bail/ Carol Luedtka/ Susan Gambee

RE: State v Lee Fair CASE NO. CH100020120

Counsel for the State

Gaff White

Counsel for the Defendant

Brian Marx

Interpreter

Plea Bargain

Ct notes def is not present

Mr White addressed to Ct

Ct orders a BW/FTA forfeits bond  
& sets new bond at 1 million dollars

Motion for Bond Reduction – circle/ Not Advanced/ Withdrawn Denied Granted

Additional Remarks (include anything the defendant or either counsel was told)



MAR 15 2011

CHRISTOPHER D. RICH, Clerk  
By CAROL LUEDTKA  
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO

Plaintiff,

vs.

LEE ODELL FAIR

Defendant.

Case No: CR-FE-2010-0020120

NOTICE OF FORFEITURE OF  
SURETY BOND

BOND POWER NO: 555066372 6

BOND AMOUNT: \$50000.00

OG's Bail Bonds  
Gustavo Sanchez  
304 16th Ave. North  
NAMP A ID 83687

Bankers Insurance Co.  
P.O. Box 33015  
St. Petersburg FL 33733-8015

**YOU ARE HEREBY NOTIFIED** that the bail for the above named Defendant for which you are obligor, was declared forfeited by order of this Court pursuant to Idaho Code 19-2927, on Tuesday, March 15, 2011.

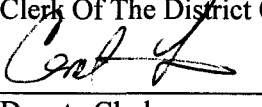
If within one hundred eighty (180) consecutive days from the above date of the order forfeiting bond, you bring said Defendant to the jail facility of the county which issued the warrant, the Court shall direct that the forfeiture be discharged.

Dated: Tuesday, March 15, 2011  
CHRISTOPHER D. RICH  
Clerk Of The District Court

By:   
Deputy Clerk

I certify a copy of this Notice was mailed, postage paid, to the above named bail agent at the address listed above.

Dated: Tuesday, March 15, 2011  
CHRISTOPHER D. RICH  
Clerk Of The District Court

By:   
Deputy Clerk

NOTICE OF FORFEITURE OF SURETY BOND

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cc: OGS Bail / Bankers Ins. / TRA

MAR 17 2011

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA  
CHRISTOPHER D. RICH, Clerk  
By AMY MCKENZIE  
DEPUTY

STATE OF IDAHO,  
Plaintiff,  
  
vs.  
  
LEE ODELL FAIR,  
6130 Russett  
Boise, ID 83704  
Defendant.

Case No: CR-FE-2010-0020120

**BENCH WARRANT FOR  
FAILURE TO APPEAR**

DOB: [REDACTED]

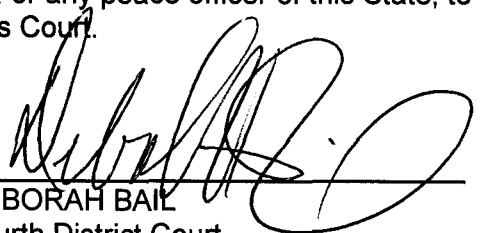
CHARGE:  
1)..118-907(1)(A)..Battery-Aggravated (Cause Great Bodily Harm or Disability) F  
2)..119-2514..Enhancement-Persistent Violator F

The Defendant LEE ODELL FAIR, having been charged with the afore-mentioned crime, and having failed to Appear as Ordered by the court on: Pretrial Conference on Monday, March 14, 2011 at 01:30 PM, ,  
  
Ada County Courthouse – Magistrate Division  
200 W. Front Street  
Boise, Idaho 83702

AS ORDERED BY THE COURT; and said defendant having been released upon a bond in the amount of \$50,000.00, said bond is hereby declared forfeited for failure to appear as directed.

THIS IS TO COMMAND the Sheriff of Ada County, Idaho, or any peace officer of this State, to forthwith arrest the above-named defendant, and bring him/her before this Court.

Dated this 15th day of March, 2011.

  
DEBORAH BAIL  
Fourth District Court

BOND SET AT: \$1000000.00, Surety ☐ ROR to Parent

RETURN OF SERVICE

I HEREBY CERTIFY that I served the foregoing Warrant by arresting the above named defendant and bringing LEE ODELL FAIR in Court this 16 day of MARCH, 2011.

RECEIVED  
Ada County Sheriff  
WARRANTS  
  
MAR 16 2011  
  
Gary Raney, Sheriff  
BOISE, IDAHO

OFF. J. KINCAID #740  
(Deputy Sheriff) (State Policeman)(City Policeman)

CASE # CR-FE-2010-0020126

DEF# 1

W ANT# 3

DR# 10-026725

OFCR: \_\_\_\_\_

**SERVICE INFORMATION SHEET**

NAME: FAIR LEE ODELL

ADDRESS: 1324 FLAMINGO ST

CITY: NAMPA ID 00000 PHONE: (768) 000-0000

SEX: M HAIR: BRO EYES: GRN HEIGHT: 6' 00" WEIGHT: 160

DOB: [REDACTED] SSN: [REDACTED]

CHARGE: Aggravated Battery, a Felony

ALIASES: \_\_\_\_\_

VEHICLE: \_\_\_\_\_  
MODEL YEAR COLOR ST LICENSE#

OTHER INFORMATION: LE# 0000627918 MAST ID # 0000000000

NCIC ENTRY: (ADDITIONAL LEVELS INCLUSIVE)

( ) North West Shuttle (ID, WA, OR)

( ) Western States (ID, WA, OR, MT, CA, WY,  
SD, ND, UT, CO, AZ, NV)

( ☒ ) Nationwide

BOND: \$1,000,000.00

BY: \_\_\_\_\_

DATE: \_\_\_\_\_

SERVICE: DAY-NGT / DAY ONLY / DAY PUBLIC PLACE / DAY-NGT PUBLIC PLACE

ADA COUNTY MAGISTRATE MINUTES

Lee Odell Fair CR-FE-2010-0020120

DOB: [REDACTED]

Scheduled Event: Video Arraignment Thursday, March 17, 2011 01:30 PM

Judge: John Hawley Jr.

Clerk: DF

Interpreter:

Prosecuting Agency: AC BC EA GC MC

Pros: J. Roundy

PD/Attorney: G. Reedy

• 1 I18-907(1)(A) Battery-Aggravated (Cause Great Bodily Harm or Disability) F

• 2 I19-2514 Enhancement-Persistent Violator F

143133 Case Called Defendant: X Present \_\_\_ Not Present X In Custody

\_\_\_ Advised of Rights \_\_\_ Waived Rights L PD Appointed \_\_\_ Waived Attorney

\_\_\_ Guilty Plea / PV Admit \_\_\_ N/G Plea \_\_\_ Advise Subsequent Penalty

X Bond \$1,000,000.00 ROR \_\_\_ Pay / Stay \_\_\_ Payment Agreement

\_\_\_ In Chambers \_\_\_ PT Memo \_\_\_ Written Guilty Plea \_\_\_ No Contact Order

Arr: 3/28/11 @ 1:30  
w/ Bail

Finish ( ) Release Defendant

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA  
MAGISTRATE DIVISION

STATE OF IDAHO,  
Plaintiff.

vs.

Lee Odell Fair  
6130 Russett  
Boise, ID 83704

Defendant.

Case No: CR-FE-2010-0020120

**NOTICE OF APPOINTMENT OF PUBLIC DEFENDER  
AND SETTING CASE FOR HEARING**

☐ Ada ☐ Boise ☐ Eagle ☐ Garden City ☐ Meridian

NO. \_\_\_\_\_  
FILED P.M. 2:35  
MAR 17 2011  
CHRISTOPHER D. RICH, Clerk  
By KELLE WEGENER  
DEPUTY

TO: Ada County Public Defender

**YOU ARE HEREBY NOTIFIED** that you are appointed to represent the defendant in this cause, or in the District Court until relieved by court order. The case is continued for:

Arraignment Monday, March 28, 2011 01:30 PM  
Judge: Deborah Bail

**BOND AMOUNT:** \_\_\_\_\_ The Defendant is: ☐ In Custody ☐ Released on Bail ☐ ROR

TO: The above named defendant

**IT HAS BEEN ORDERED BY THIS COURT** that the defendant is to contact the Ada County Public Defender's Office at 200 W. Front Street, Room 1107, Boise, Idaho 83702. Telephone: (208) 287-7400. If the defendant is unable to post bond and obtain his/her release from jail, that the proper authorities allow the defendant to make a phone call to the Ada County Public Defender.

**IT HAS BEEN FURTHER ORDERED:** That the parties, prior to the pre-trial conference, complete and comply with Rule 16 I.C.R. and THAT THE DEFENDANT BE **PERSONALLY PRESENT** AT BOTH THE PRE-TRIAL CONFERENCE AND / OR THE JURY TRIAL: FAILURE TO APPEAR AT EITHER THE PRE-TRIAL CONFERENCE OR THE JURY TRIAL WILL RESULT IN A **BENCH WARRANT** FOR THE DEFENDANT'S **ARREST**.

Dated : 3/17/2011

\_\_\_\_\_  
Deputy Clerk

I hereby certify that copies of this Notice were served as follows on this date Thursday, March 17, 2011.

Defendant: Mailed \_\_\_\_\_ Hand Delivered ☒ Signature \_\_\_\_\_  
Clerk / date \_\_\_\_\_ Phone ( ) \_\_\_\_\_

Prosecutor: Interdepartmental Mail \_\_\_\_\_

Public Defender: Interdepartmental Mail \_\_\_\_\_

  
Deputy Clerk

000072

47 NO  
APR  
3/28  
1:30

NO. \_\_\_\_\_  
A.M. \_\_\_\_\_ FILED P.M. ✓

MAR 25 2011

CHRISTOPHER D. RICH, Clerk  
By LANI BROXSON  
DEPUTY

OG's Bail Bonds  
Bail Agency  
308 15th Ave. No.  
Address  
Nampa, ID. 83687  
City, State, Zip  
(208) 899-2533  
Phone  
(208) 465-2974  
Fax

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff,

vs.

Lee Odell Fair  
Defendant.

Case No. CR-FE-2010-20120

MOTION FOR EXONERATION OF  
BAIL AFTER FORFEITURE

Bond Amt: \$ 50,000

Power No. 555066372-6✓

Date Forfeited: 3/15/11

Charge: Aggravated Battery

PURSUANT TO THE GUIDELINES FOR THE ADMINISTRATION OF BAIL BONDS IN THE  
FOURTH JUDICIAL DISTRICT ADOPTED BY THIS COURT,

MOTION IS HEREBY MADE that the undertaking of bail posted in the matter herein  
by OG's Bail Bonds, on behalf of the above-named defendant, be  
exonerated; and

IT IS FURTHER STATED that said undertaking in this matter has been forfeited by  
this court; however, the above-named defendant was surrendered to the County Sheriff  
as certified in the Certificate of Surrender of Defendant filed herein, all within the time  
limits prescribed by said Guidelines.

Christopher Sanchez 3/25/11  
Bail Agent Date

**MAR 28 2011**

**CHRISTOPHER D. RICH, Clerk**  
By LANI BROXSON  
DEPUTY

**GREG H. BOWER**

Ada County Prosecuting Attorney

**Jeffrey S. White**

Deputy Prosecuting Attorney

200 West Front Street, Room 3191

Boise, Idaho 83702

Phone: 287-7700

Fax: 287-7709

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF

THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,

Plaintiff,

vs.

LEE ODELL FAIR,

Defendant.

**Case No. CR-FE-2010-0020120**

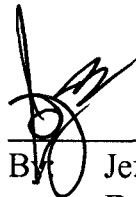
**THIRD ADDENDUM TO  
DISCOVERY RESPONSE  
TO COURT**

**COMES NOW**, Jeffrey S. White, Deputy Prosecuting Attorney in and for Ada County, State of Idaho, and informs the Court that the State has submitted a Third Addendum to Response to Discovery.

**RESPECTFULLY SUBMITTED** this 25 day of March, 2011.

**GREG H. BOWER**

Ada County Prosecuting Attorney



By Jeffrey S. White  
Deputy Prosecuting Attorney

## CRIMINAL CASE FILE MEMO

Re. Set JT

DATE: March 28, 2011 DEFENDANT PRESENT Y N CUSTODY/BONDFROM: Judge Deborah Bail/ Carol Luedtka/ Susan GambeeRE: State v Lee Fair CASE NO. CR100020120

Counsel for the State

Jeff White

Counsel for the Defendant

Brian Mark

Interpreter

Plea Bargain

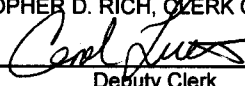
Ct resets this for trialPTC - June 6 @ 9:30JT - July 5 @ 9:30Disc May 1

M-White addresses Ct re: Supp Part II +  
asks Ct to amend by interpretation. Ct  
allows + makes correction. No obj by Def.

Motion for Bond Reduction – circle/ Not Advanced/ Withdrawn Denied Granted

Additional Remarks (include anything the defendant or either counsel was told)



FILED  
Tuesday, March 29, 2011 at 09:29 AM  
CHRISTOPHER D. RICH, CLERK OF THE COURT  
BY:   
Deputy Clerk

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

DEBORAH A. BAIL  
DISTRICT JUDGE

March 29th, 2011

THE STATE OF IDAHO,  
Plaintiff,

Case No. CR-FE-2010-0020120

vs.

LEE ODELL FAIR,  
Defendant.

NOTICE OF RE-SETTING TRIAL

**THIS IS YOUR NOTICE OF RE-SETTING TRIAL**

The above-entitled matter has been re-set for trial before the Court and a jury for:

Pretrial Conference.....Monday, June 06, 2011 @ 09:30 AM

Judge: Deborah Bail

Jury Trial.....Tuesday, July 05, 2011 @ 09:30 AM

Judge: Deborah Bail

- ▶ All requested jury instructions must be submitted to the court five (5) days prior to trial.
- ▶ Any motion to exclude a witness who was a victim of the alleged crime must be made two (2) weeks prior to trial.
- ▶ Discovery compliance date is set for, May 1, 2011.
- ▶ Notice is hereby given, pursuant to I.C.R. 25(a)(6) that an alternate judge may be assigned to preside over the trial of this case. The following is a list of potential alternate judges:

Hon. Phillip M. Becker  
Hon. G.D. Carey  
Hon. Dennis Goff  
Hon. George R. Reinhart, III  
Hon. Nathan Higer  
Hon. Daniel C. Hurlbutt, Jr.  
Hon. Linda Copple-Trout

Hon. James Judd  
Hon. Duff McKee  
Hon. Daniel Meehl  
Hon. Barry Wood  
Hon. W. H. Woodland  
Hon. Kathryn A. Sticklen  
Any Fourth District Judge

Unless a party has previously exercised their right to disqualification without cause under Rule 25(a)(1), each party shall have the right to file one (1) motion for disqualification without cause as to any alternate judge not later than fourteen (14) days after service of this written notice listing the alternate judge.

**Copies to Counsel:**

ADA COUNTY PROSECUTORS OFFICE

ADA COUNTY PUBLIC DEFENDERS OFFICE

147  
H.S.  
4/18  
9:30

NO. \_\_\_\_\_  
A.M. \_\_\_\_\_ FILED P.M. 344

**APR 11 2011**

CHRISTOPHER D. RICH, Clerk  
By NATALIE FARACA  
DEPUTY

**GREG H. BOWER**  
Ada County Prosecuting Attorney

**Jeff White**  
Deputy Prosecuting Attorney  
200 W. Front Street, Room 3191  
Boise, Id. 83702  
(208) 287-7700 Telephone

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,	)	
	)	
Plaintiff,	)	<b>Case No. CR-FE-2010-0020120</b>
	)	
vs.	)	<b>MOTION FOR</b>
	)	<b>PROTECTION ORDER</b>
LEE ODELL FAIR,	)	<b>PURSUANT TO I.C.R. 16(k)</b>
	)	
Defendant.	)	
_____	)	

**COMES NOW**, Jeff White, Deputy Prosecuting Attorney for Ada County, State of Idaho, and moves this court for a protective order pursuant to Idaho Criminal Rule 16(k). The State asks this court to order counsel for all defendants, their investigators, and their office personnel, employees, or contractors, including potential expert witnesses, not to disclose to any of the defendants, their family members, or anyone known to counsel to be likely to visit the defendants in custody, any identifying information regarding any person mentioned in the State's discovery materials.


*[Handwritten signature]*

This information includes, but is not limited to, persons' names, nicknames, addresses, phone numbers, social security numbers, dates of birth, personal relationships among or between persons mentioned in the discovery material, persons presence at a place and time where any of the defendants where present, persons' connection with property known to the defendants, or any other information by which the any of the defendants would be able to ascertain the identity of a person who had contact with the police regarding this case.

Further, while the State recognizes that Counsel must be able to allow the Defendant to review all evidence, the State respectfully request this Court issue an Order prohibiting the duplication and/or distribution of the police reports and other documents or evidence ultimately disclosed to the defense in this case. The State respectfully requests a hearing on this motion.

**DATED** this 11 day of April 2011.

**GREG H. BOWER**  
Ada County Prosecuting Attorney

  
By: 

Jeff White  
Deputy Prosecuting Attorney

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 11th day of April, 2011, a true and correct copy of the foregoing Motion for Protection Order was served to **Brian Marx, Ada County Public Defender, 200 W. Front Street, Room 1107, Boise, ID 83702**, in the manner noted below:

- ☐ *By depositing copies of the same in the United States mail, postage prepaid, first class.*
- ☐ *By depositing copies of the same in the Interdepartmental Mail.*
- ☐ *By informing the office of said individual(s) that said copies were available for pickup at the Office of the Ada County Prosecutor.*
- ☐ *By faxing copies of the same to said attorney(s) at the facsimile number: \_\_\_\_\_*
- ☒ *Hand-delivery*

*Gili Hilbert*  
Legal Assistant

**APR 11 2011**

CHRISTOPHER D. RICH, Clerk  
By NATALIE FARACA  
DEPUTY

**GREG H. BOWER**  
Special Prosecuting Attorney for Canyon County

**Jeffrey S. White**  
Special Deputy Prosecuting Attorney  
200 W. Front Street, Room 3191  
Boise Idaho 83702  
Telephone: (208) 287-7700

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,	)	
	)	
Plaintiff,	)	<b>Case No. CRFE2010-0020120</b>
	)	
vs.	)	<b>NOTICE OF HEARING</b>
	)	
LEE ODELL FAIR,	)	
	)	
	)	
Defendant.	)	

---

**TO: LEE ODELL FAIR**, and Brian Marx, Ada County Public defender,  
his attorney of record, you will please take notice that on the 18th day of April,  
2011, at the hour of 9:30 a.m. of said day, this case will be set for the State's  
Motion for Protection Order.

DATED this 5 day of April, 2011.

**GREG H. BOWER**

Ada County Prosecuting Attorney



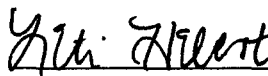
Jeffrey S. White

Deputy Prosecuting Attorney

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 11<sup>th</sup> day of April, 2011, a true and correct copy of the State's Motion for Protection Order was served to **Brian Marx, Ada County Public Defender, 200 W. Front Street, Room 1107, Boise, Idaho 83702**, in the manner noted below:

- ☐ *By depositing copies of the same in the United States mail, postage prepaid, first class.*
- ☐ *By depositing copies of the same in the Interdepartmental Mail.*
- ☐ *By informing the office of said individual(s) that said copies were available for pickup at the Office of the Ada County Prosecutor.*
- ☐ *By faxing copies of the same to said attorney(s) at the facsimile number:*
- ☒ *Hand-delivery*



Leti Hebert, Legal Assistant

147  
HS  
4/13  
230

CHRISTOPHER D. RICH, Clerk  
By NATALIE FARACA  
DEPUTY

**Jeffrey S. White**  
Deputy Prosecuting Attorney  
200 W. Front Street, Room 3191  
Boise Idaho 83702  
Telephone: (208) 287-7700

THE STATE OF IDAHO,

Plaintiff,

**VS.**

LEE ODELL FAIR,

Defendant.

**Case No. CRFE2010-0020120**

## NOTICE OF HEARING

**TO: LEE ODELL FAIR**, and Brian Marx, Ada County Public defender, his attorney of record, you will please take notice that on the 13th day of April, 2011, at the hour of 2:30 p.m. of said day, this case will be set for the State's Motion for Protection Order.

MD

DATED this 12 day of April, 2011.

**GREG H. BOWER**

Ada County Prosecuting Attorney



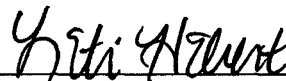
Jeffrey S. White

Deputy Prosecuting Attorney

**CERTIFICATE OF SERVICE**

I **HEREBY CERTIFY** that on this 12<sup>th</sup> day of April, 2011, a true and correct copy of the State's Motion for Protection Order was served to **Brian Marx, Ada County Public Defender, 200 W. Front Street, Room 1107, Boise, Idaho 83702**, in the manner noted below:

- ☐ *By depositing copies of the same in the United States mail, postage prepaid, first class.*
- ☐ *By depositing copies of the same in the Interdepartmental Mail.*
- ☐ *By informing the office of said individual(s) that said copies were available for pickup at the Office of the Ada County Prosecutor.*
- ☐ *By faxing copies of the same to said attorney(s) at the facsimile number:*
- ☒ *Hand-delivery*



Leti Hebert, Legal Assistant



CRIMINAL CASE FILE MEMO

No/Protective Order

DATE: April 13, 2011 DEFENDANT PRESENT (Y/N CUSTODY) BOND

FROM: Judge Deborah Bail/ Carol Luedtka/ Susan Gambee

RE: State v Lee Fair CASE NO. CR100020120

Counsel for the State Jeff White

Counsel for the Defendant Brian Marx

Interpreter \_\_\_\_\_

Plea Bargain \_\_\_\_\_

Mr White argues to the Court  
re: protective order re: facebook page w/ Cts Comments.  
Mr Marx argues to the Court & asks for some  
guidance

Ct grants State's No/Protective order -  
No discovery is to be placed on facebook or  
witness names, SS # or DOB. Court won't allow  
any written discovery to be given to def - Counsel  
may read to def the discovery - but no copies.

Mr White will submit order

Motion for Bond Reduction – circle/ Not Advanced/ Withdrawn Denied Granted

Additional Remarks (include anything the defendant or either counsel was told) \_\_\_\_\_

APR 14 2011

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

CHRISTOPHER D. RICH, Clerk  
By CAROL LUEDTKA  
DEPUTY

THE STATE OF IDAHO,

Plaintiff,

vs.

LEE ODELL FAIR,

Defendant,

Case No. CR-FE-2010-0020120

**ORDER FOR PROTECTION  
PURSUANT TO I.C.R. 16(k)**

**THE ABOVE ENTITLED MATTER** having come before this Court for hearing  
and good cause appearing:

**IT IS HEREBY ORDERED** that counsel for the Defendant, their investigators, and  
their office personnel, employees, or contractors, including potential expert witnesses shall  
not disclose to the Defendant's family members, or anyone known to counsel to be likely to  
visit the Defendant in custody, any identifying information regarding persons mentioned in  
the State's discovery materials. Counsel may discuss discovery issues with the Defendant  
but may not provide him with copies to retain. The Defendant may not disclose information  
to any other person about any person named in the discovery materials, other than his  
counsel or counsel's investigator, including but not limited to, any names, nicknames,  
addresses, phone numbers, social security numbers, date of birth, personal relationships  
among or between persons mentioned in the discovery material.

**IT IS FURTHER ORDERED** that no duplication and/or distribution and/or  
publication be made of the police reports and other documents or evidence including audio  
recordings provided to defense counsel by the State. Defense counsel reserves the right to  
seek modification and/or relief from this Order if necessary in the future. Any such motion  
for modification or relief shall be filed and noticed for hearing as required by court rule.

DATED 14<sup>th</sup> day of April, 2011.

Nehorahk. Zail  
District Judge

147  
p+c  
6/6  
9:30

**ADA COUNTY PUBLIC DEFENDER**  
Attorneys for Defendant

**BRIAN C. MARX, ISB #7694**  
**Deputy Public Defender**  
200 West Front Street, Suite 1107  
Boise, Idaho 83702  
Telephone: (208) 287-7400  
Facsimile: (208) 287-7409

NO. \_\_\_\_\_ FILED \_\_\_\_\_  
A.M. \_\_\_\_\_ P.M. 4

**APR 27 2011**

CHRISTOPHER D. RICH, Clerk  
By LANI BROXSON  
DEPUTY

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

**STATE OF IDAHO,**

**Plaintiff,**

**vs.**

**LEE ODELL FAIR,**

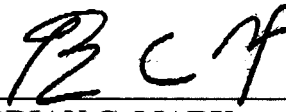
**Defendant.**

**Case No. CR-FE-2010-0020120**

**DEFENDANT'S 3<sup>RD</sup> DISCOVERY  
RESPONSE TO COURT**

**COMES NOW**, Lee Odell Fair, Defendant above-named, by and through counsel BRIAN C. MARX, Ada County Public Defender's office, and informs this Court that Defendant has complied with the State's request for discovery by serving upon JEFFREY S. WHITE, counsel for the state of Idaho, with Defendant's 2<sup>nd</sup> Response to Discovery on the above-filed date.

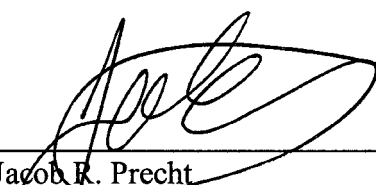
**DATED**, Tuesday, April 26, 2011.

  
\_\_\_\_\_  
**BRIAN C. MARX**  
Attorney for Defendant

**CERTIFICATE OF MAILING**

**I HEREBY CERTIFY**, that on Tuesday, April 26, 2011, I mailed (served) a true and correct copy of the within instrument to:

**JEFFREY S. WHITE**  
Ada County Prosecutor's office  
Interdepartmental Mail

  
\_\_\_\_\_  
Jacob R. Precht

**DEFENDANT'S 3<sup>RD</sup> DISCOVERY RESPONSE TO COURT**

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CWG

147  
PTC  
6/6  
9:30

NO. \_\_\_\_\_  
A.M. \_\_\_\_\_ P.M. 230

**MAY 24 2011**

CHRISTOPHER D. RICH, Clerk  
By NATALIE FARACA  
DEPUTY

**GREG H. BOWER**  
Ada County Prosecuting Attorney

**Jeffrey S. White**  
Deputy Prosecuting Attorney  
200 West Front Street, Room 3191  
Boise, Idaho 83702  
Phone: 287-7700  
Fax: 287-7709

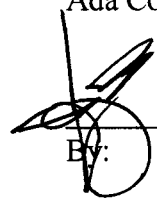
IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,	)	
	)	
Plaintiff,	)	<b>Case No. CR-FE-2010-0020120</b>
vs.	)	
	)	
LEE ODELL FAIR,	)	<b>FOURTH ADDENDUM TO</b>
	)	<b>DISCOVERY RESPONSE</b>
Defendant.	)	<b>TO COURT</b>
_____	)	

**COMES NOW**, Jeffrey S. White, Deputy Prosecuting Attorney in and for Ada County,  
State of Idaho, and informs the Court that the State has submitted a Fourth Addendum to Response  
to Discovery.

**RESPECTFULLY SUBMITTED** this 24 day of May, 2011.

**GREG H. BOWER**  
Ada County Prosecuting Attorney

  
By: \_\_\_\_\_  
Jeffrey S. White  
Deputy Prosecuting Attorney

*cmj*

NO. \_\_\_\_\_  
A.M. \_\_\_\_\_ P.M. 4

**MAY 27 2011**

CHRISTOPHER D. RICH, Clerk  
By LANI BROXSON  
DEPUTY

147  
PTC  
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0.30

ADA COUNTY PUBLIC DEFENDER  
Attorneys for Defendant  
200 West Front Street, Suite 1107  
Boise, Idaho 83702  
Telephone: (208) 287-7400  
Facsimile: (208) 287-7419

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF

THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,	)	
	)	Criminal No. CR-FE-10-20120
Plaintiff,	)	
	)	DEFENDANT'S MOTION IN LIMINE
vs.	)	
	)	
LEE FAIR,	)	
	)	
Defendant.	)	
_____	)	

COMES NOW, the above-named Defendant, Lee Fair, by and through his Attorney of Record, the Ada County Public Defender's Office, BRIAN MARX, handling attorney, and hereby moves this Court to prohibit the State from introducing evidence regarding the photo lineups that include Mr. Fair as well as prohibit any subsequent in court identifications.

The state alleges per the filed Information that the conduct leading to the charge occurred on October 16, 2010. Per the police report coversheet and the computer aided dispatch sheet the alleged incident was not reported until the following afternoon. On October 25, 2010 a member of the Boise City Police

Department showed the complaining party and his girlfriend were shown photo lineups and circled Mr. Fair's picture. The complaining party asserts that the person who committed the crime had a neck tattoo of the word Boise on his neck.

Both lineups given consisted of 6 color photos. The only individual with the word Boise on their neck in the lineup was Mr. Fair. One other individual has a small portion of a neck tattoo showing, however the other four individuals in the lineup had no neck tattoo. The only other individual with a neck tattoo showing is not consistent with Mr. Fair's tattoo. Mr. Fair also has a face tattoo and the only individual pictured with a face tattoo was the individual with a partially visible neck tattoo.

Identification of the defendant as the perpetrator of a crime is an element of every criminal case. Most often, identifications are made when a witness testifies that the person seated next to defense counsel is the one who committed the crime. However, a witness may also make an out of court identification through a photographic lineup. In some cases, these out of court identifications are unreliable and should be excluded.

Eyewitness testimony is at the mercy of any errors of perception and memory, however they are often times perceived as reliable to the general public. The United States Supreme Court

has established constitutional restrictions on the use of eyewitness identification, particularly, the Court's recognition that a "[W]itness' recollection of the stranger may be distorted easily by the circumstances or by later actions of the police." *Manson v. Brathwaite*, 432 U.S. 98, 112 (1977). "[A] trial court must decide whether the out of court identification was so suggestive that there is a very substantial likelihood of misidentification." *State v. Trevino* 132 Idaho 888, 892 (1999)

*Trevino* at 892 states, "Due process requires the exclusion of identification evidence if police suggestiveness created a substantial risk of misidentification, *Stovall v. Denno*, 388 U.S. 293, (1967); *State v. Alger*, 115 Idaho 42, 44 (Ct.App. 1988), except where the reliability of the identification is sufficient to outweigh the corrupting effect of suggestive identification." *Brathwaite* at 106; *State v. Hoisington*, 104 Idaho 153, 162 (1983). "The question of whether improper suggestiveness exists is determined from a totality of the circumstances." *Trevino* at 892, citing *Neil v. Biggers* 409 U.S. 188, 196 (1972).

Citing *Brathwaite*, *Trevino* lists the factors governing the degree of reliability in an out of court identification as:

- (1) the opportunity of the witness to view the criminal at the time of the crime; (2) the witness' degree of attention; (3) the accuracy of the witness' prior description of the criminal; (4) the level of certainty demonstrated at the



identification; and (5) the length of time between the crime and the identification. at 893.

In *State v. Schevers* 132 Idaho 786, 788 (Ct.App1999) the defendant challenged a photo lineup given to a witness during an out of court identification. The Court in that case held "

The photo lineup was prepared by the State of Idaho Driver's License Bureau. It contained six photographs of clean-shaven men of about the same age, all wearing glasses. The pictures were all Idaho driver's license photos of the same size and type. We cannot discern anything in this photo array that emphasizes Schevers' photograph more than the other five. ... Therefore, we find Schevers' argument that the photo lineup alone violated his right to due process to be without merit.

Defendant asserts that the identification was not reliable in this case given the totality of the circumstances. The witnesses waited until the following afternoon to report the alleged battery. The photo lineup did not occur until eight days later. The incident occurred outside a bar while another fight involving other individuals was occurring. The complaining party further claims he was knocked unconscious from the punch he says he sustained. His ability to reliably view the incident was compromised. While the witnesses' photo lineup were conducted at two different locations the lineups were not conducted simultaneously and were given approximately forty-five minutes apart.

Mr. Fair further asserts the lineups were unduly suggestive. While Mr. Fair was not the only individual in the

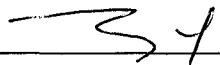
lineup with a neck tattoo, he was the only individual in the lineup with a neck tattoo of writing. Defendant acknowledges that the standard admonishment was included on the photo lineups, defendant asserts only having one individual in the lineup with the allegedly identifying tattoo is underlying suggestive regardless of the admonishment. To avoid an unduly suggestive lineup it would seem that the appropriate method would have been to remove Mr. Fair's tattoo from his neck in the lineup or add the tattoo to the other five individuals in the lineup. Short of that, Officer Miller failed to even attempt to include five other individuals with neck tattoos that include words as part of the lineup array. This would not have been a complicated nor impossible task and the failure to do so impermissibly made the given lineups unduly suggestive.

The defendant in *Schevers* was unsuccessful in challenging the lineup given in that case as the Court there found that nothing emphasized the defendant in that lineup more than the other individuals. Presumably the Court there would have ruled differently if there was something that emphasized the defendant more than the other photos. Mr. Fair's photo was clearly emphasized in this case and following the reasoning in *Schevers* it would follow that Mr. Fair's lineup should be excluded.

In addition to the tattoo issue, Mr. Fair assert that the five additional photos were not sufficiently similar to Mr. Fair that it further resulted in his photo being emphasized.

The witnesses subsequently testified at Mr. Fair's preliminary hearing. Any identifications of Mr. Fair have been tainted from the initial viewing of the photo lineup forward. Mr. Fair respectfully requests this Court order at trial that the state provide no testimony regarding the photo lineups given nor allow any in court identifications as subsequent in court identifications are tainted from the unduly suggestive lineup.

DATED, this 21<sup>st</sup> day of May, 2011.

  
\_\_\_\_\_  
**BRIAN MARX**  
Attorney for Defendant

**CERTIFICATE OF MAILING**

I HEREBY CERTIFY, that on this 17 day of May, 2011, I  
mailed a true and correct copy of the foregoing to the:

Ada County Prosecutor

by depositing the same in the Interdepartmental Mail.

34 for  
Jacob Precht

CRIMINAL CASE FILE MEMO

PTC

DATE: June 16, 2011 DEFENDANT PRESENT (Y/N) CUSTODY BOND

FROM: Judge Deborah Bail/ Tara Therrien Carol Luedtka Susan Gambee

RE: State v Lee Fair CASE NO. CRFE 10-20120

Counsel for the State Jeff White

Counsel for the Defendant Brian Marx

Interpreter \_\_\_\_\_

Plea Bargain \_\_\_\_\_

State asks for continuance

Ct. cont. PTC - June 20, 2011 @ 9:30am

Motion for Bond Reduction – circle/ Not Advanced/ Withdrawn Denied Granted

Additional Remarks (include anything the defendant or either counsel was told) \_\_\_\_\_

**JUN 06 2011**

**CHRISTOPHER D. RICH, Clerk**  
By **TARA THERRIEN**  
DEPUTY

**GREG H. BOWER**  
Ada County Prosecuting Attorney

**Jeffrey S. White**  
Deputy Prosecuting Attorney  
200 West Front Street, Room 3191  
Boise, Idaho 83702  
Phone: (208) 287-7700  
Fax: (208) 287-7709

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF

THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,	)	
	)	
Plaintiff,	)	<b>Case No. CRFE-2010-0020120</b>
vs.	)	
	)	<b>NOTICE OF INTENT TO</b>
LEE ODELL FAIR,	)	<b>IMPEACH A WITNESS</b>
	)	<b>PURSUANT TO I.R.E. 609</b>
Defendant.	)	
	)	
	)	

**COMES NOW**, Jeffrey S. White, Deputy Prosecuting Attorney for the County of Ada, State of Idaho, and hereby notifies the Court and Counsel of the State's intent to impeach a potential witness (Larson Firth) with evidence of a prior felony conviction pursuant to I.R.E. 609 as follows should she choose to testify in the above-entitled case:

1. Judgment of Conviction for Obtaining a Controlled Substance by Fraud or Forgery, Case No. CRFE-08-11972.

DATED this 6 day of June, 2011.

**GREG H. BOWER**

Ada County Prosecuting Attorney



By: Jeffrey S. White

Deputy Prosecuting Attorney

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 6 day of June, 2011, a true and correct copy of the foregoing Notice of Intent to Impeach was served to **Brian C. Marx, Ada County Public Defender, 200 W. Front Street, Room 1107, Boise, ID 83702**, in the manner noted below:

- ☐ *By depositing copies of the same in the United States mail, postage prepaid, first class.*
- ☐ *By depositing copies of the same in the Interdepartmental Mail.*
- ☐ *By informing the office of said individual(s) that said copies were available for pickup at the Office of the Ada County Prosecutor.*
- ☐ *By faxing copies of the same to said attorney(s) at the facsimile number: \_\_\_\_\_*

\_\_\_\_\_  
Legal Assistant

NO. \_\_\_\_\_  
A.M. \_\_\_\_\_ P.M. 12:52

**JUN 06 2011**

**CHRISTOPHER D. RICH, Clerk**  
By **TARA THERRIEN**  
DEPUTY

**GREG H. BOWER**  
Ada County Prosecuting Attorney

**Jeff White**  
Deputy Prosecuting Attorney  
200 W. Front Street, Room 3191  
Boise, Id. 83702  
(208) 287-7700 Telephone

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF

THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,

Plaintiff,

vs.

LEE ODELL FAIR,

Defendant.

**Case No. CR-FE-2010-0020120**

**STATE'S OBJECTION TO  
DEFENDANT'S MOTION IN  
LIMINE**

**COMES NOW**, Jeff White, Deputy Prosecuting Attorney for Ada County, State of Idaho, and hereby presents the State's Objection to Defendant's motion in limine, for the reasons stated below.

### **FACTS**

As stated in Defendant's Motion in Limine, the incident is alleged to have occurred on or about October 16, 2010. On that evening, the victim Gerald Blakely and three of his friends were at Dino's Bar for a period of approximately 1-2 hours. One of the victim's friends saw a person at the bar that he knew from previous experience to be the Defendant, Lee Fair, who was present



with two other persons. That person, Joel Hoffman, went to high school with the Defendant. As the victim and his friends attempted to leave the bar, Defendant and his two friends were waiting for them in the parking lot. A fight broke out between Mr. Hoffman and one of Defendant's friends, and it is at this time Defendant punched the victim in the face causing severe damage to the victim's jaw and/or mandible. The crime was reported the next day when the victim was released from the hospital. At that time, the victim identified the perpetrator of the battery as the Defendant, Lee Fair.

During a subsequent interview the same day with Officer Miller of the Boise Police, the victim again identified Defendant as the perpetrator of the battery. The suspect was identified by the victim as being in his mid-20's, approximately six feet tall, having a medium build, and having a very distinctive tattoo of the word "Boise" across his throat. This description perfectly matches the Defendant. On October 25, 2010, less than two weeks after the incident had occurred, the victim and his girlfriend were shown the photo lineup in question. After receiving the standard admonition, both selected the Defendant as the person who had battered the victim. A color copy of the photo lineup in question is attached to this document as "Exhibit A" and is incorporated herein by reference.

Two other eyewitnesses to the event, Joel Hoffman and his girlfriend, were not shown the lineup by Officer Miller. It is the State's understanding that neither of these two eyewitnesses have ever seen that photo lineup.

Subsequent to his arrest, Defendant has made numerous phone calls from the Ada County jail in which he has admitted being present on the night of the incident, admitted that the account of the events given by the victim leading up to the victim being punched is accurate, but claimed that he actually walked away from the parking lot prior to the victim being punched and a third party actually committed the battery. Based upon the statements given by the potential trial witnesses identified by the Defendant, it appears Defendant intends to present that defense at trial.

### **ARGUMENT**

In analyzing whether a photo lineup or other identification procedure is so unduly suggestive that it violates the Defendant's right to due process, the primary evil to be avoided is "a very substantial likelihood of irreparable misidentification." *Neil v. Biggers*, 409 U.S. 188, 198 (1972), *quoting Simmons v. U.S.*, 390 U.S. 377, 384 (1968). The standard is the same for in-

court and out-of-court identifications based upon allegedly suggestive procedures. *Id.*

Unnecessary suggestiveness alone does not require exclusion of evidence; rather, the Defendant bears the burden of proving the substantial likelihood of misidentification as a result of the allegedly suggestive procedures before the evidence will be excluded. *Id.* Therefore, the issue of “suggestiveness” goes to the weight, not the admissibility, of the evidence of identification, unless the Defendant successfully shows that the alleged suggestiveness also led to a misidentification.

In the instant case, turning to the *Trevino/Biggers* factors, the possibility of a misidentification is none. The witnesses observed the Defendant and his friends in a lit bar for approximately 1-2 hours prior to the attack. While the witnesses attention may have been somewhat divided at the exact moment of Defendant’s attack on the victim because of the other fight occurring, this misses the point. It has never been suggested that another person matching the Defendant’s physical description (including his highly distinctive tattoo) is the real offender; rather Defendant himself acknowledges that he was present at the scene and standing right next to the victim right before he was attacked. He only claims that a friend of his with an entirely different physical description and no throat tattoo, somewhat unseen by anyone else, jumped in and attacked the victim. To the extent the other fight may have divided the witness’ attention at that exact point, that goes to the ability of the witnesses to accurately identify the person who threw the punch and not whether the Defendant was present.

The victim’s prior physical description of the Defendant as the perpetrator of the battery matches the Defendant perfectly. Both witnesses who were shown the photo lineups offered no hesitation and picked Defendant out as the perpetrator immediately upon seeing his photograph. While Defendant complains in his motion in limine about the eight day delay in conducting the lineup, this obviously short time period cuts in favor of the identification being proper. This delay was nowhere near the seven month delay complained of in *Biggers*, and the victim’s identification in that case was not held to be problematic. The identification of Defendant is further bolstered by the identification of Joel Hoffman, a person who both already knew Defendant prior to the incident and identified Defendant as the perpetrator without having ever seen the lineup. Coupled with Defendant’s repeated admissions of his presence at the scene, there is simply no chance the Defendant was misidentified by the witnesses.


While it is obvious that Defendant is the only person in the lineup with a prominent tattoo across his throat, Defendant's suggested "cures" for this problem are truly nothing of the sort. His first request is that the police should have "removed Mr. Fair's tattoo from his neck." Given that the eyewitnesses specifically cited to Defendant's highly distinctive tattoo of the word "Boise" at the primary factor in their ability to identify him, it is highly questionable how this would have made the photo lineup have better evidentiary value. Eliminating such a distinctive feature specifically relied upon by witnesses would have only increased the likelihood that the witnesses viewing the lineup would have failed to make an identification.

Defendant's further request, that officers should have somehow transposed Defendant's tattoo onto the other photographs, is equally unavailing. Defendant is silent as to how, exactly, officers should have accomplished this task and made that tattoo appear natural on the other five photographs. Unless this "tattoo transfer" could be accomplished perfectly, Defendant would no doubt complain that the lineup was suggestive because the addition of his tattoo onto the other five photographs just looked "too fake" to be believed and drew unnecessary attention to his photograph.

Defendant's final request, that officers should have included "five other individuals with neck tattoos that include words" is equally puzzling. As previously mentioned, the witnesses specifically identified the word "Boise" as being prominently tattooed across Defendant's throat. The State is unaware of any other individuals with a similar tattoo. Given that the witnesses had specifically identified Defendant's tattoo as saying "Boise", it is unclear how including photographs of individuals with neck tattoos of completely different words would have done anything to make the lineup less suggestive. Ultimately, Defendant is simply asking this Court to rule that his voluntary decision of getting a highly distinctive and unique tattoo prominently across the front of his throat should mean that the police are left with no way of properly identifying him through a photo lineup because it would be too suggestive. This argument is wholly unsupported by the relevant case law, and given the extraordinarily low likelihood of a misidentification in this case Defendant's Motion in Limine should be denied.

DATED this 6 day of June 2011.

**GREG H. BOWER**  
Ada County Prosecuting Attorney



By: Jeff White  
Deputy Prosecuting Attorney

### CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this \_\_\_\_\_ day of June, 2011, a true and correct copy of the foregoing Motion for Protection Order was served to **Brian Marx, Ada County Public Defender, 200 W. Front Street, Room 1107, Boise, ID 83702**, in the manner noted below:

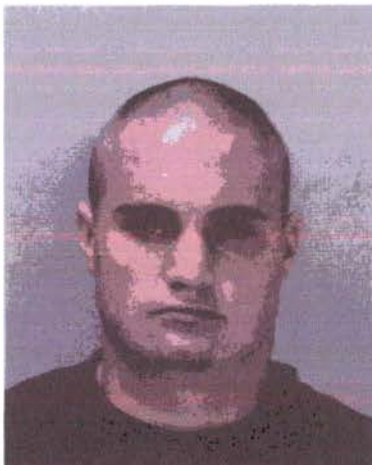
- ☐ *By depositing copies of the same in the United States mail, postage prepaid, first class.*
- ☐ *By depositing copies of the same in the Interdepartmental Mail.*
- ☐ *By informing the office of said individual(s) that said copies were available for pickup at the Office of the Ada County Prosecutor.*
- ☐ *By faxing copies of the same to said attorney(s) at the facsimile number: \_\_\_\_\_*

\_\_\_\_\_  
Legal Assistant

## Photographic Line-Up



2.



5.



This group of photographs may or may not contain a picture of the person who committed the crime now being investigated. Keep in mind that hair styles, beards, and moustaches may be easily changed. Also, photographs may not always depict the true complexion of a person -- it may be lighter or darker than shown in the photo. Pay no attention to any markings or numbers that may appear on the photos or any other differences in the type or style of the photographs. When you have looked at all the photos, tell me whether you see the person who committed the crime. Do not tell other witnesses that you have or have not identified anyone."

Identification made : ☒ YES ☐ NOPhoto selected # 3Date of Identification 10/25/10Initialed by the witness : [Signature]

## CRIMINAL CASE FILE MEMO

PTC

DATE: June 20, 2011 DEFENDANT PRESENT Y/N CUSTODY/BONDFROM: Judge Deborah Bail/ <sup>Cindy HP</sup> Carol Luedtke/ Susan GambeeRE: State v Lee Fair CASE NO. CRFE10-20120

Counsel for the State

Jeff White

Counsel for the Defendant

Brian Marx

Interpreter

Plea Bargain

Case Unresolved-9:30 - 5:00 3d Trial on 7/5/11Motions on morning of Trial.

Motion for Bond Reduction – circle/ Not Advanced/ Withdrawn Denied Granted

Additional Remarks (include anything the defendant or either counsel was told) \_\_\_\_\_

147  
51  
715  
9:30  
ADA COUNTY PUBLIC DEFENDER  
Attorneys for Defendant

BRIAN C. MARX, ISB #7694  
Deputy Public Defender  
200 West Front Street, Suite 1107  
Boise, Idaho 83702  
Telephone: (208) 287-7400  
Facsimile: (208) 287-7409

NO. \_\_\_\_\_ FILED 4:00  
A.M. \_\_\_\_\_ P.M.

JUN 20 2011

CHRISTOPHER D. RICH, Clerk  
By ELAINE TONG  
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff,

vs.

LEE ODELL FAIR,

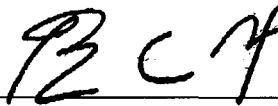
Defendant.

Case No. CR-FE-2010-0020120

DEFENDANT'S 4<sup>th</sup> DISCOVERY  
RESPONSE TO COURT

COMES NOW, Lee Odell Fair, Defendant above-named, by and through counsel BRIAN C. MARX, Ada County Public Defender's office, and informs this Court that Defendant has complied with the State's request for discovery by serving upon JEFFREY S. WHITE, counsel for the state of Idaho, with Defendant's 3<sup>rd</sup> Addendum to Discovery on the above-filed date.

DATED, Monday, June 20, 2011.

  
BRIAN C. MARX  
Attorney for Defendant

CERTIFICATE OF MAILING

I HEREBY CERTIFY, that on Monday, June 20, 2011, I mailed (served) a true and correct copy of the within instrument to:

JEFFREY S. WHITE  
Ada County Prosecutor's office  
Interdepartmental Mail

  
Jacob R. Precht

  
DEFENDANT'S 4<sup>TH</sup> DISCOVERY RESPONSE TO COURT

000106

NO. \_\_\_\_\_  
A.M. \_\_\_\_\_ FILED P.M. 4:37

JUN 27 2011

CHRISTOPHER D. RICH, Clerk  
By TARA THERRIEN  
DEPUTY

RECEIVED  
JUN 08 2011  
ADA COUNTY CLERK

ADA COUNTY PUBLIC DEFENDER  
Attorneys for Defendant  
200 West Front Street, Suite 1107  
Boise, Idaho 83702  
Telephone: (208) 287-7400  
Facsimile: (208) 287-7409

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff,

vs.

LEE ODELL FAIR,

Defendant.

Case No. CR-FE-2010-0020120

**EX PARTE ORDER  
TO TRANSPORT WITNESS**

WITNESS: Larson Firth, #99144  
C/o SBWCC  
Kuna, Idaho

The witness above-named is in the custody of the State Board of Correction at the South Boise Women's Correctional Center. It is necessary that she be brought before this Court to offer testimony for the defense in the above-entitled case on July 5, 2011, at 9:30 a.m.

The sheriff of Ada County, state of Idaho, shall bring the above witness to Court on the aforementioned date to offer testimony at the trial scheduled in the above-entitled matter.

EX PARTE ORDER TO TRANSPORT WITNESS

000107<sup>1</sup>

TE M: PAI PD/AZT/IMC



The South Boise Women's Correctional Center shall release the above-named witness to the sheriff of Ada County, state of Idaho, for the sole purpose of offering testimony at the aforementioned jury trial.

Said defense witness shall remain in the custody of the Ada County Sheriff at the Ada County Jail until said witness' testimony is no longer needed and is relieved by this Court. Upon being relieved, the sheriff of Ada County shall return the witness to the custody of the State Board of Correction, and the South Boise Women's Correctional Center shall retake the witness into custody from the Ada County Sheriff.

The Clerk of this Court shall serve a copy hereof upon the State Board of Correction, the Ada County Sheriff's Transport Unit, and the South Boise Women's Correctional Center, and certify to said same.

**SO ORDERED AND DATED**, this 27<sup>th</sup> day of June 2011.



---

**DEBORAH A. BAIL**  
District Judge

ADA COUNTY PUBLIC DEFENDER  
Attorneys for Defendant  
200 West Front Street, Suite 1107  
Boise, Idaho 83702  
Telephone: (208) 287-7400  
Facsimile: (208) 287-7409

NO. \_\_\_\_\_  
A.M. \_\_\_\_\_ P.M. 4:37  
**RECEIVED**  
**JUN 08 2011**  
**JUN 27 2011**  
CHRISTOPHER D. RICH, Clerk  
TARA THERRIEN  
DEPUTY  
ADA COUNTY CLERK

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff,

vs.

LEE ODELL FAIR,

Defendant.

Case No. CR-FE-2010-0020120

**EX PARTE ORDER TO  
TRANSPORT WITNESS**

WITNESS: Ricahrd Laine, LE #623576  
Ada County Jail

It appearing that he above-named witness is in the custody of the Ada County Sheriff, and that it is necessary that he be brought before this Court to testify at the trial set for July 5, 2011, at 9:30 a.m.

The Sheriff of Ada County, state of Idaho, shall bring the above witness to Court on the above date to offer testimony at the trial scheduled in the above case number. Upon testifying, the Ada County Sheriff shall return the witness to the Ada County Jail

The Clerk of this Court shall serve a copy hereof upon the Ada County Sheriff's Transport Unit forthwith, and certify to said same.

SO ORDERED AND DATED, this 27 day of June 2011.

  
\_\_\_\_\_  
DEBORAH A. BAIL  
District Judge

147  
PTC  
6/30  
9:30

ADA COUNTY PUBLIC DEFENDER  
Attorneys for Defendant  
200 West Front Street, Suite 1107  
Boise, Idaho 83702  
Telephone: (208) 287-7400  
Facsimile: (208) 287-7409

NO. \_\_\_\_\_  
A.M. \_\_\_\_\_ FILED P.M. 4:37  
**RECEIVED**  
**JUN 08 2011**  
**ADA COUNTY CLERK**  
CHRISTOPHER D. RICH, Clerk  
By TARA THERRIEN  
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff,

vs.

LEE ODELL FAIR,

Defendant.

Case No. CR-FE-2010-0020120

**EX PARTE ORDER TO  
TRANSPORT WITNESS**

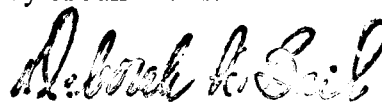
WITNESS: Lynard Rood, LE #140674  
Ada County Jail

It appearing that he above-named witness is in the custody of the Ada County Sheriff, and that it is necessary that he be brought before this Court to testify at the trial set for July 5, 2011, at 9:30 a.m.

The Sheriff of Ada County, state of Idaho, shall bring the above witness to Court on the above date to offer testimony at the trial scheduled in the above case number. Upon testifying, the Ada County Sheriff shall return the witness to the Ada County Jail

The Clerk of this Court shall serve a copy hereof upon the Ada County Sheriff's Transport Unit forthwith, and certify to said same.

SO ORDERED AND DATED, this 27<sup>th</sup> day of June 2011.



DEBORAH A. BAIL  
District Judge

Ti MO. PA/PO/ALJ

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JT  
7/5

JUN 29 2011

CHRISTOPHER D. RICH, Clerk  
By AMAIA URQUIDI  
DEPUTY

9:00 GREG H. BOWER  
Ada County Prosecuting Attorney

**Jeffrey S. White**  
Deputy Prosecuting Attorney  
200 West Front Street, Room 3191  
Boise, Idaho 83702  
Phone: (208) 287-7700  
Fax: (208) 287-7709

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,	)	
	)	
Plaintiff,	)	<b>Case No. CRFE-2010-0020120</b>
vs.	)	
	)	<b>NOTICE OF INTENT TO</b>
LEE ODELL FAIR,	)	<b>IMPEACH A WITNESS</b>
	)	<b>PURSUANT TO I.R.E. 609</b>
Defendant.	)	
	)	
	)	
	)	

**COMES NOW**, Jeffrey S. White, Deputy Prosecuting Attorney for the County of Ada, State of Idaho, and hereby notifies the Court and Counsel of the State's intent to impeach a potential witness (Lynard Rood) with evidence of a prior felony conviction pursuant to I.R.E. 609 as follows should he choose to testify in the above-entitled case:

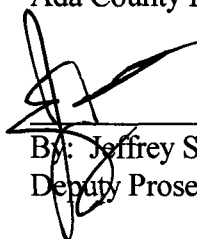
1. Plea of guilty to a charge of Grand Theft on June 8, 2011, in Ada County Case No. CRFE-11-2928.
2. Testimony of Richie Laine at the preliminary hearing in Ada County Case no. CRFE-11-2928 on March 10, 2011, at which Richie Laine testified for the State implicating Lynard Rood in the crimes of Grand Theft and Burglary.

AW

The State does not believe #2 is the type of impeachment evidence contemplated by Rule 609 as requiring advance notice and/or a prior determination of admissibility by the Court, however the State is providing notice anyway pursuant to Rule 609 out of an abundance of caution.

DATED this 29 day of June, 2011.

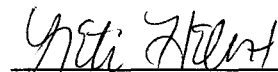
**GREG H. BOWER**  
Ada County Prosecuting Attorney

  
By: Jeffrey S. White  
Deputy Prosecuting Attorney

### CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 29<sup>th</sup> day of June, 2011, a true and correct copy of the foregoing Notice of Intent to Impeach was served to **Brian C. Marx, Ada County Public Defender, 200 W. Front Street, Room 1107, Boise, ID 83702**, in the manner noted below:

- ☐ By depositing copies of the same in the United States mail, postage prepaid, first class.
- ☐ By depositing copies of the same in the Interdepartmental Mail.
- ☒ By informing the office of said individual(s) that said copies were available for pickup at the Office of the Ada County Prosecutor.
- ☐ By faxing copies of the same to said attorney(s) at the facsimile number: \_\_\_\_\_

  
Legal Assistant

147  
HS  
7/5  
9:00

FILED  
JUN 29 2011  
A.M.

**ADA COUNTY PUBLIC DEFENDER**  
**Attorneys for Defendant**

**CHRISTOPHER D. RICH, Clerk**  
By LANI BROXSON  
DEPUTY

**BRIAN C. MARX, ISB #7694**  
**Deputy Public Defender**  
**200 West Front Street, Suite 1107**  
**Boise, Idaho 83702**  
**Telephone: (208) 287-7400**  
**Facsimile: (208) 287-7409**

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF**  
**THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

**STATE OF IDAHO,**

**Plaintiff,**

**vs.**

**LEE ODELL FAIR,**

**Defendant.**

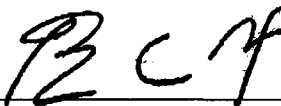
**Case No. CR-FE-2010-0020120**

**DEFENDANT'S LIST OF**  
**POTENTIAL TRIAL WITNESSES**

**COMES NOW**, LEE ODELL FAIR, the defendant above-named, by and through counsel BRIAN C. MARX, Ada County Public Defender's Office, and provides the following list of the defendant's potential trial witnesses:

- |                 |                 |
|-----------------|-----------------|
| a) Larson Firth | d) Lynard Rood  |
| b) Sean Hammock | e) Tomy Basco   |
| c) Richard Lane | f) John Anzuoni |

**DATED**, Wednesday, June 29, 2011.

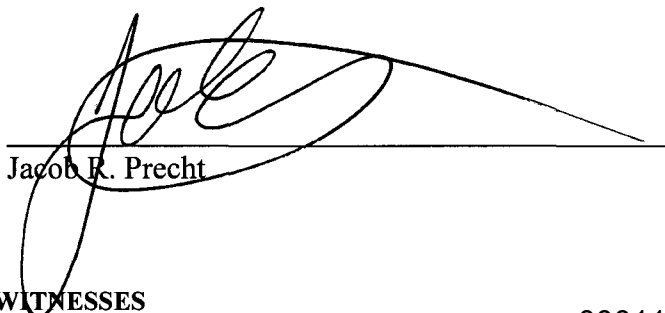


**BRIAN C. MARX**  
**Attorney for Defendant**

**CERTIFICATE OF MAILING**

**I HEREBY CERTIFY**, that on Wednesday, June 29, 2011, I mailed (served) a true and correct copy of the within instrument to:

**JEFFREY S. WHITE**  
**Ada County Prosecutor's Office**  
**Interdepartmental Mail**



**Jacob R. Precht**

**DEFENDANT'S LIST OF POTENTIAL TRIAL WITNESSES**

000113

E

NO. \_\_\_\_\_  
A.M. 11:20 FILED P.M. \_\_\_\_\_

**JUL 01 2011**

**CHRISTOPHER D. RICH, Clerk**  
By **TARA THERRIEN**  
DEPUTY

**ADA COUNTY PUBLIC DEFENDER**  
**Attorneys for Defendant**

**BRIAN C. MARX, ISB #7694**  
**Deputy Public Defender**  
**200 West Front Street, Suite 1107**  
**Boise, Idaho 83702**  
**Telephone: (208) 287-7400**  
**Facsimile: (208) 287-7409**

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF**  
**THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

**STATE OF IDAHO,**

**Plaintiff,**

**vs.**

**LEE ODELL FAIR,**

**Defendant.**

**Case No. CR-FE-2010-0020120**

**STIPULATION TO VACATE AND**  
**RESET JURY TRIAL**

The parties above-named, by and through undersigned counsel, come now and hereby move this Court for an ORDER vacating the jury trial set in the above-case number for July 5, 2011, and reset said trial to a time convenient to both Court and counsel.

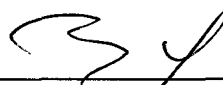
The defense has recently uncovered additional witnesses who have the potential of having a significant impact upon Mr. Fair's trial. The parties learned of the witnesses on Wednesday, June 29, 2011, and additional time is necessary to conduct further investigation. The parties feel that vacating and resetting the trial is prudent in this matter and further request

that an additional pre-trial conference be scheduled for Monday July 11, 2011, or any other such time as the Court deems necessary in order to reset the trial.

DATED, this 1 day of July 2011.



JEFFREY S. WHITE  
Ala County Prosecutor's Office



BRIAN C. MARX  
Attorney for Defendant



## CRIMINAL CASE FILE MEMO

Re-set Trial

DATE: July 5, 2011 DEFENDANT PRESENT ON CUSTODY BONDFROM: Judge Deborah Bail/ Tara Therrien/ Carol Luedtka/ Susan GambeeRE: State v Lee Fair CASE NO. CRFE10-20120Counsel for the State Jeff WhiteCounsel for the Defendant Brian Marx

Interpreter \_\_\_\_\_

Plea Bargain \_\_\_\_\_

St. asks for a continuance.Def. does not object.Ct. continues J.T. = August 9, 2011 @ 9:30am  
PTC = July 25, 2011 @ 9:30am

Motion for Bond Reduction – circle/ Not Advanced/ Withdrawn Denied Granted

Additional Remarks (include anything the defendant or either counsel was told) \_\_\_\_\_

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

DEBORAH A. BAIL  
DISTRICT JUDGE

July 5th, 2011

THE STATE OF IDAHO,  
Plaintiff,

Case No. CR-FE-2010-0020120

vs.

LEE ODELL FAIR,  
Defendant.

NOTICE OF RE-SETTING TRIAL

**THIS IS YOUR NOTICE OF RE-SETTING TRIAL**

The above-entitled matter has been re-set for trial before the Court and a jury for:

Pretrial Conference.....Monday, July 25, 2011 @ 9:30 AM  
Judge: Deborah Bail

Jury Trial.....Tuesday, August 09, 2011 @ 9:30 AM  
Judge: Deborah Bail

- ▶ All requested jury instructions must be submitted to the court five (5) days prior to trial.
- ▶ Any motion to exclude a witness who was a victim of the alleged crime must be made two (2) weeks prior to trial.
- ▶ Notice is hereby given, pursuant to I.C.R. 25(a)(6) that an alternate judge may be assigned to preside over the trial of this case. The following is a list of potential alternate judges:

Hon. Phillip M. Becker	Hon. George R. Reinhart, III
Hon. G.D. Carey	Hon. Gerald F. Schroeder
Hon. Dennis Goff	Hon. Kathryn A. Sticklen
Hon. Daniel C. Hurlbutt, Jr.	Hon. Linda Copple-Trout
Hon. James Judd	Hon. Barry Wood
Hon. Peter McDermott	Hon. W. H. Woodland
Hon. Duff McKee	Any Fourth District Judge
Hon. Daniel Meehl	

Unless a party has previously exercised their right to disqualification without cause under Rule 25(a)(1), each party shall have the right to file one (1) motion for disqualification without cause as to any alternate judge not later than fourteen (14) days after service of this written notice listing the alternate judge.

**Copies to Counsel:**

ADA COUNTY PROSECUTORS OFFICE

ADA COUNTY PUBLIC DEFENDERS OFFICE

147  
MC  
7/25  
G:30

3  
A.M. 10:42 FILED P.M.

**ADA COUNTY PUBLIC DEFENDER**  
**Attorneys for Defendant**

**BRIAN C. MARX, ISB #7694**  
**Deputy Public Defender**  
**200 West Front Street, Suite 1107**  
**Boise, Idaho 83702**  
**Telephone: (208) 287-7400**  
**Facsimile: (208) 287-7409**

**JUL 12 2011**

**CHRISTOPHER D. RICH, Clerk**  
**By ELAINE TONG**  
**DEPUTY**

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF**  
**THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

**STATE OF IDAHO,**

**Plaintiff,**

**vs.**

**LEE ODELL FAIR,**

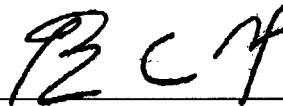
**Defendant.**

**Case No. CR-FE-2010-0020120**

**DEFENDANT'S 5<sup>TH</sup> DISCOVERY**  
**RESPONSE TO COURT**

**COMES NOW**, Lee Odell Fair, Defendant above-named, by and through counsel BRIAN C. MARX, Ada County Public Defender's office, and informs this Court that Defendant has complied with the State's request for discovery by serving upon JEFFREY S. WHITE, counsel for the state of Idaho, with Defendant's 4<sup>th</sup> Addendum to Discovery on the above-filed date.

**DATED**, Friday, July 08, 2011.

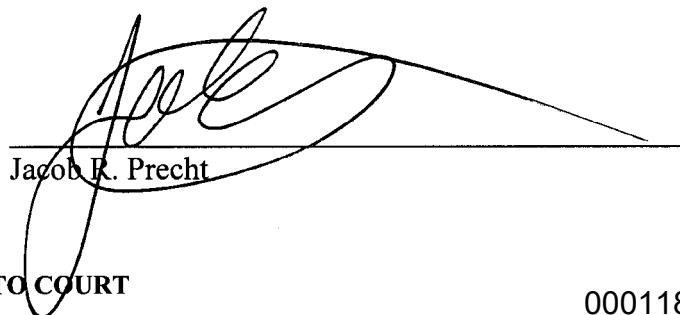


**BRIAN C. MARX**  
**Attorney for Defendant**

**CERTIFICATE OF MAILING**

**I HEREBY CERTIFY**, that on Friday, July 08, 2011, I mailed (served) a true and correct copy of the within instrument to:

**JEFFREY S. WHITE**  
**Ada County Prosecutor's office**  
**Interdepartmental Mail**



**Jacob R. Precht**

**DEFENDANT'S 5<sup>TH</sup> DISCOVERY RESPONSE TO COURT**

000118

JUL 21 2011

CHRISTOPHER D. RICH, Clerk  
By LANI BROXSON  
DEPUTY

147  
PT  
7/25  
9:30  
**ADA COUNTY PUBLIC DEFENDER**  
**Attorneys for Defendant**

**BRIAN C. MARX, ISB #7694**  
**Deputy Public Defender**  
**200 West Front Street, Suite 1107**  
**Boise, Idaho 83702**  
**Telephone: (208) 287-7400**  
**Facsimile: (208) 287-7409**

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF**  
**THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

**STATE OF IDAHO,**

**Plaintiff,**

**vs.**

**LEE ODELL FAIR,**

**Defendant.**

**Case No. CR-FE-2010-0020120**

**MOTION FOR JURY INSTRUCTIONS**

**COMES NOW**, LEE ODELL FAIR, Defendant above-named, by and through counsel BRIAN C. MARX, Ada County Public Defender's office, and hereby moves this Court to include ICJI 225-1204 (Included Offense—Battery) as part of the jury instructions submitted to the jury panel sitting in the above-entitled matter.

**DATED**, this 21<sup>st</sup> day of July 2011.

  
\_\_\_\_\_  
**BRIAN C. MARX**  
**Attorney for Defendant**

**CERTIFICATE OF MAILING**

**I HEREBY CERTIFY**, that on this 21 day of July 2011, I mailed (served) a true and correct copy of the within instrument to:

**JEFFREY S. WHITE**  
**Ada County Prosecutor's Office**  
**Interdepartmental Mail**

  
\_\_\_\_\_  
**Jacob R. Precht**

FILED  
A.M. P.M. *[initials]*

**JUL 21 2011**

**CHRISTOPHER D. RICH, Clerk**  
By LANI BROXSON  
DEPUTY

**ADA COUNTY PUBLIC DEFENDER**  
**Attorneys for Defendant**

**BRIAN C. MARX, ISB #7694**  
**Deputy Public Defender**  
**200 West Front Street, Suite 1107**  
**Boise, Idaho 83702**  
**Telephone: (208) 287-7400**  
**Facsimile: (208) 287-7409**

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF**  
**THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

**STATE OF IDAHO,**  
**Plaintiff,**

**vs.**

**LEE ODELL FAIR,**  
**Defendant.**

**Case No. CR-FE-2010-0020120**

***ADDENDUM TO DEFENDANT'S LIST***  
***OF POTENTIAL TRIAL WITNESSES***

**COMES NOW**, LEE ODELL FAIR, the defendant above-named, by and through counsel BRIAN C. MARX, Ada County Public Defender's Office, and provides the following list of the defendant's potential trial witnesses:

g) Lathan Johansen

**DATED**, Thursday, July 21, 2011.

*[Signature: Brian C. Marx]*  
\_\_\_\_\_  
**BRIAN C. MARX**  
**Attorney for Defendant**

**CERTIFICATE OF MAILING**

**I HEREBY CERTIFY**, that on Thursday, July 21, 2011, I mailed (served) a true and correct copy of the within instrument to:

**JEFFREY S. WHITE**  
**Ada County Prosecutor's Office**  
**Interdepartmental Mail**

*[Signature: Jacob R. Precht]*  
\_\_\_\_\_  
Jacob R. Precht

*AW*

FILED 9  
A.M. P.M.

JUL 21 2011

CHRISTOPHER D. RICH, Clerk  
By LANI BROXSON  
DEPUTY

ADA COUNTY PUBLIC DEFENDER  
Attorneys for Defendant

BRIAN C. MARX, ISB #7694  
Deputy Public Defender  
200 West Front Street, Suite 1107  
Boise, Idaho 83702  
Telephone: (208) 287-7400  
Facsimile: (208) 287-7409

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff,

vs.

LEE ODELL FAIR,

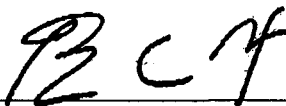
Defendant.

Case No. CR-FE-2010-0020120

DEFENDANT'S 6<sup>TH</sup> DISCOVERY  
RESPONSE TO COURT

COMES NOW, Lee Odell Fair, Defendant above-named, by and through counsel BRIAN C. MARX, Ada County Public Defender's office, and informs this Court that Defendant has complied with the State's request for discovery by serving upon JEFFREY S. WHITE, counsel for the state of Idaho, with Defendant's 5<sup>th</sup> Addendum to Discovery on the above-filed date.

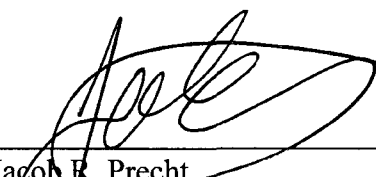
DATED, Thursday, July 21, 2011.

  
BRIAN C. MARX  
Attorney for Defendant

CERTIFICATE OF MAILING

I HEREBY CERTIFY, that on Thursday, July 21, 2011, I mailed (served) a true and correct copy of the within instrument to:

JEFFREY S. WHITE  
Ada County Prosecutor's office  
Interdepartmental Mail

  
Jacob R. Precht

DEFENDANT'S 6<sup>TH</sup> DISCOVERY RESPONSE TO COURT

000121

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NO. \_\_\_\_\_ FILED \_\_\_\_\_  
A.M. \_\_\_\_\_ P.M. ✓  
**JUL 22 2011**  
CHRISTOPHER D. RICH, Clerk  
By LANI BROXSON  
DEPUTY

**GREG H. BOWER**  
Ada County Prosecuting Attorney

**Jeffrey S. White**  
Deputy Prosecuting Attorney  
200 West Front Street, Room 3191  
Boise, Idaho 83702  
Phone: 287-7700  
Fax: 287-7709

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,	)	
	)	
Plaintiff,	)	<b>Case No. CR-FE-2010-0020120</b>
vs.	)	
	)	
LEE ODELL FAIR,	)	<b>FIFTH ADDENDUM TO</b>
	)	<b>DISCOVERY RESPONSE</b>
	)	<b>TO COURT</b>
Defendant.	)	
_____	)	

**COMES NOW**, Jeffrey S. White, Deputy Prosecuting Attorney in and for Ada County,  
State of Idaho, and informs the Court that the State has submitted a Fifth Addendum to Response to  
Discovery.

**RESPECTFULLY SUBMITTED** this 21 day of July, 2011.

**GREG H. BOWER**  
Ada County Prosecuting Attorney

*[Handwritten mark]*

*[Signature]*  
By: Jeffrey S. White  
Deputy Prosecuting Attorney

CRIMINAL CASE FILE MEMO

PTC

DATE: July 25, 2011 DEFENDANT PRESENT YN CUSTODY/BOND

FROM: Judge Deborah Bail/ Tara Thermen Carol Luedtka/ Susan Gambee

RE: State v Lee Fair CASE NO. CRFE10-20120

Counsel for the State Jeff White

Counsel for the Defendant Brian Marx

Interpreter \_\_\_\_\_

Plea Bargain \_\_\_\_\_

- Still a go for Trial (8/9)  
- State hands Court Witness List  
to be filed.

Motion for Bond Reduction – circle/ Not Advanced/ Withdrawn Denied Granted

Additional Remarks (include anything the defendant or either counsel was told) \_\_\_\_\_



JUL 25 2011

CHRISTOPHER D. RICH, Clerk  
By TARA THERRIEN  
DEPUTY

**GREG H. BOWER**  
Ada County Prosecuting Attorney

**Jeff White**  
Deputy Prosecuting Attorney  
200 W. Front Street  
Boise, Idaho 83702  
Telephone: (208) 287-7700

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF

THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO, )

Plaintiff, )

vs. )

LEE ODELL FAIR, )

Defendant. )

Case No. CR-FE-2010-0020120

**STATE'S LIST OF POTENTIAL  
TRIAL WITNESSES**

**COMES NOW**, Jeff White, Deputy Prosecuting Attorney, in and for the County of  
Ada, State of Idaho, and does hereby provide the following list of potential trial witnesses:

- a. Officer Tad Miller - BPD.
- b. Det. Jeff Wudarki - BPD.
- c. Juliet McKay - ACSO.
- d. Ron Axtman - ACPA.
- e. Gerald Blakely.
- f. Shelly Thompson.
- g. Laura Suydam.
- h. Joel Hoffman.
- i. Richard Laine.
- j. Dr. Bruce Morrison - DDS.
- k. Dr. Kristen Fenwick - DDS.
- l. Dr. Matthew Judd - DO.

**DATED** this 25 day of July 2011.

**GREG H. BOWER**  
Ada County Prosecuting Attorney

A handwritten signature in black ink, appearing to read "Jeff White", is written over a horizontal line.

Jeff White  
Deputy Prosecuting Attorney

O. \_\_\_\_\_  
A.M. 11:05 FILED P.M. \_\_\_\_\_

JUL 25 2011

CHRISTOPHER D. RICH, Clerk  
By TARA THERRIEN  
DEPUTY

ADA COUNTY PUBLIC DEFENDER  
Attorneys for Defendant  
200 West Front Street, Suite 1107  
Boise, Idaho 83702  
Telephone: (208) 287-7400  
Facsimile: (208) 287-7409

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff,

vs.

LEE ODELL FAIR,

Defendant.

Case No. CR-FE-2010-0020120

*EX PARTE* ORDERS TO  
TRANSPORT WITNESS

WITNESSES:

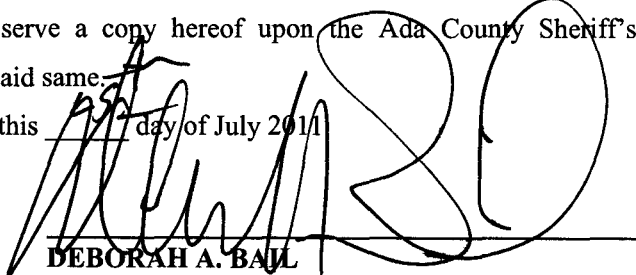
- Lynard Rood, LE #140674
- Richard Laine, LE #623576
- Larson Firth, LE # 668955

It appearing that the above-named witnesses are in the custody of the Ada County Sheriff, and that it is necessary that they be brought before this Court to testify at the trial set for August 9, 2011, at 9:30 a.m.

The Sheriff of Ada County, state of Idaho, shall bring the above witnesses to Court on the above date to offer testimony at the trial scheduled in the above case number. Upon testifying, the Ada County Sheriff shall return the witnesses to the Ada County Jail

The Clerk of this Court shall serve a copy hereof upon the Ada County Sheriff's Transport Unit forthwith, and certify to said same.

SO ORDERED AND DATED, this 25<sup>th</sup> day of July 2011

  
DEBORAH A. BAIL  
District Judge

*EX PARTE* ORDER TO TRANSPORT WITNESS

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IT CC: PAID/ACT

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NO. \_\_\_\_\_ FILED 4/27  
A.M. \_\_\_\_\_ P.M. \_\_\_\_\_

**ADA COUNTY PUBLIC DEFENDER**  
**Attorneys for Defendant**

**BRIAN C. MARX, ISB #7694**  
**Deputy Public Defender**  
**200 West Front Street, Suite 1107**  
**Boise, Idaho 83702**  
**Telephone: (208) 287-7400**  
**Facsimile: (208) 287-7409**

**JUL 27 2011**

**CHRISTOPHER D. RICH, Clerk**  
**By MAURA OLSON**  
**DEPUTY**

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF**  
**THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

**STATE OF IDAHO,**

**Plaintiff,**

**vs.**

**LEE ODELL FAIR,**

**Defendant.**

**Case No. CR-FE-2010-0020120**

***ADDENDUM TO DEFENDANT'S LIST***  
***OF POTENTIAL TRIAL WITNESSES***

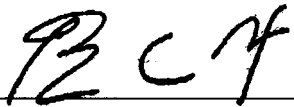
**COMES NOW**, LEE ODELL FAIR, the defendant above-named, by and through counsel BRIAN C. MARX, Ada County Public Defender's Office, and provides the following list of the defendant's potential trial witnesses:

h) Ron Axtman

j) Norman Ortiz-Perez

i) Nina Lucas

**DATED**, Wednesday, July 27, 2011.

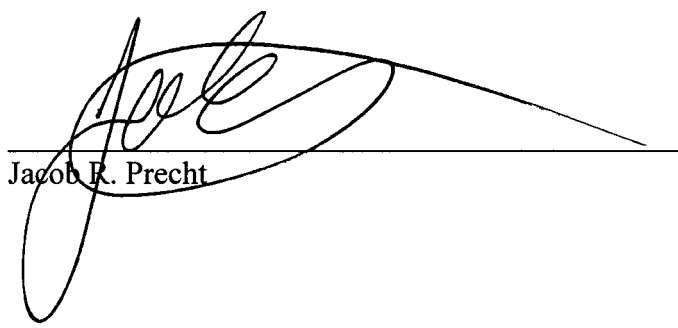


**BRIAN C. MARX**  
**Attorney for Defendant**

**CERTIFICATE OF MAILING**

**I HEREBY CERTIFY**, that on Wednesday, July 27, 2011, I mailed (served) a true and correct copy of the within instrument to:

**JEFFREY S. WHITE**  
**Ada County Prosecutor's Office**  
**Interdepartmental Mail**



**Jacob R. Precht**

***ADDENDUM TO DEFENDANT'S LIST OF POTENTIAL TRIAL WITNESSES***

000127

NO. \_\_\_\_\_  
A.M. \_\_\_\_\_ P.M. 340

JUL 27 2011

CHRISTOPHER D. RICH, Clerk  
By MAURA OLSON  
DEPUTY

147  
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**ADA COUNTY PUBLIC DEFENDER**  
**Attorneys for Defendant**

**BRIAN C. MARX, ISB #7694**  
**Deputy Public Defender**  
**200 West Front Street, Suite 1107**  
**Boise, Idaho 83702**  
**Telephone: (208) 287-7400**  
**Facsimile: (208) 287-7409**

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF**  
**THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

**STATE OF IDAHO,**

**Plaintiff,**

**vs.**

**LEE ODELL FAIR,**

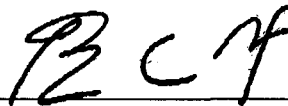
**Defendant.**

**Case No. CR-FE-2010-0020120**

**DEFENDANT'S 7<sup>TH</sup> DISCOVERY**  
**RESPONSE TO COURT**

**COMES NOW**, Lee Odell Fair, Defendant above-named, by and through counsel BRIAN C. MARX, Ada County Public Defender's office, and informs this Court that Defendant has complied with the State's request for discovery by serving upon JEFFREY S. WHITE, counsel for the state of Idaho, with Defendant's 6<sup>th</sup> Addendum to Discovery on the above-filed date.

**DATED**, Wednesday, July 27, 2011.

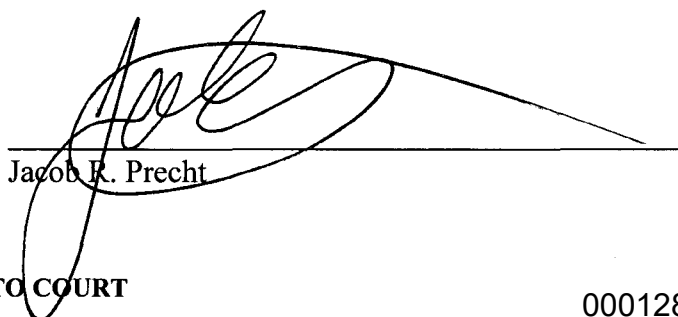


**BRIAN C. MARX**  
**Attorney for Defendant**

**CERTIFICATE OF MAILING**

**I HEREBY CERTIFY**, that on Wednesday, July 27, 2011, I mailed (served) a true and correct copy of the within instrument to:

**JEFFREY S. WHITE**  
**Ada County Prosecutor's office**  
**Interdepartmental Mail**

  
Jacob R. Precht

 **DEFENDANT'S 7<sup>TH</sup> DISCOVERY RESPONSE TO COURT**

000128

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NO. 1027  
A.M. FILED P.M.

**JUL 28 2011**

**CHRISTOPHER D. RICH, Clerk**  
By **MAURA OLSON**  
DEPUTY

**GREG H. BOWER**  
Ada County Prosecuting Attorney

**Jeffrey S. White**  
Deputy Prosecuting Attorney  
200 West Front Street, Room 3191  
Boise, Idaho 83702  
Phone: 287-7700  
Fax: 287-7709

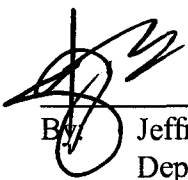
IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,	)	
	)	
Plaintiff,	)	<b>Case No. CR-FE-2010-0020120</b>
vs.	)	
	)	<b>SIXTH ADDENDUM TO</b>
LEE ODELL FAIR,	)	<b>DISCOVERY RESPONSE</b>
	)	<b>TO COURT</b>
Defendant.	)	
_____	)	

**COMES NOW**, Jeffrey S. White, Deputy Prosecuting Attorney in and for Ada County,  
State of Idaho, and informs the Court that the State has submitted a Sixth Addendum to Response  
to Discovery.

**RESPECTFULLY SUBMITTED** this 27 day of July, 2011.

**GREG H. BOWER**  
Ada County Prosecuting Attorney

  
By Jeffrey S. White  
Deputy Prosecuting Attorney

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ADA COUNTY PUBLIC DEFENDER  
Attorneys for Defendant  
200 West Front Street, Suite 1107  
Boise, Idaho 83702  
Telephone: (208) 287-7400  
Facsimile: (208) 287-7409

NO. \_\_\_\_\_  
A.M. \_\_\_\_\_ FILED P.M. 2:45

JUL 28 2011

CHRISTOPHER D. RICH, Clerk  
By TARA THERRIEN  
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff,

vs.

LEE ODELL FAIR,

Defendant.

Case No. CR-FE-2010-0020120

**EX PARTE ORDER TO  
TRANSPORT WITNESS**

**WITNESS:**

- Norman Ortiz-Perez, LE #144243

It appearing that the above-named witnesses are in the custody of the Ada County Sheriff, and that it is necessary that they be brought before this Court to testify at the trial set for August 9, 2011, at 9:30 a.m.

The Sheriff of Ada County, state of Idaho, shall bring the above witnesses to Court on the above date to offer testimony at the trial scheduled in the above case number. Upon testifying, the Ada County Sheriff shall return the witnesses to the Ada County Jail

The Clerk of this Court shall serve a copy hereof upon the Ada County Sheriff's Transport Unit forthwith, and certify to said same.

SO ORDERED AND DATED, this 28<sup>th</sup> day of July 2011.



DEBORAH A. BAIL  
District Judge

TR  
CO. PA/PO/PSI

NO. \_\_\_\_\_  
A.M. \_\_\_\_\_ FILED P.M. 2:45

JUL 28 2011

CHRISTOPHER D. RICH, Clerk  
By TARA THERRIEN  
DEPUTY

**ADA COUNTY PUBLIC DEFENDER**  
**Attorneys for Defendant**  
**200 West Front Street, Suite 1107**  
**Boise, Idaho 83702**  
**Telephone: (208) 287-7400**  
**Facsimile: (208) 287-7409**

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF**  
**THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

**STATE OF IDAHO,**

**Plaintiff,**

**vs.**

**LEE ODELL FAIR,**

**Defendant.**

**Case No. CR-FE-2010-0020120**

***EX PARTE ORDER***  
**TO TRANSPORT WITNESS**

**WITNESS: Nina Lucas, IDOC #62399**  
**C/o SBWCC, Unit 2**  
**Kuna, Idaho**

The witness above-named is in the custody of the State Board of Correction at the South Boise Women's Correctional Center. It is necessary that she be brought before this Court to offer testimony for the defense in the above-entitled case on August 9, 2011, at 9:30 a.m.

The sheriff of Ada County, state of Idaho, shall bring the above witness to Court on the aforementioned date to offer testimony at the trial scheduled in the above-entitled matter.

**EX PARTE ORDER TO TRANSPORT WITNESS**

000131<sup>1</sup>

11 CC: PAI PDI AZJ LDR



The South Boise Women's Correctional Center shall release the above-named witness to the sheriff of Ada County, state of Idaho, for the sole purpose of offering testimony at the aforementioned jury trial.

Said defense witness shall remain in the custody of the Ada County Sheriff at the Ada County Jail until said witness' testimony is no longer needed and is relieved by this Court. Upon being relieved, the sheriff of Ada County shall return the witness to the custody of the State Board of Correction, and the South Boise Women's Correctional Center shall retake the witness into custody from the Ada County Sheriff.

The Clerk of this Court shall serve a copy hereof upon the State Board of Correction, the Ada County Sheriff's Transport Unit, and the South Boise Women's Correctional Center, and certify to said same.

**SO ORDERED AND DATED**, this 28<sup>th</sup> day of July 2011.



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**DEBORAH A. BAIL**  
District Judge

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A.M. \_\_\_\_\_ P.M. 9

JUL 29 2011

**ADA COUNTY PUBLIC DEFENDER**  
**Attorneys for Defendant**

**BRIAN C. MARX, ISB #7694**  
**Deputy Public Defender**  
**200 West Front Street, Suite 1107**  
**Boise, Idaho 83702**  
**Telephone: (208) 287-7400**  
**Facsimile: (208) 287-7409**

**CHRISTOPHER D. RICH, Clerk**  
**By LANI BROXSON**  
**DEPUTY**

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF**  
**THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

**STATE OF IDAHO,**

**Plaintiff,**

**vs.**

**LEE ODELL FAIR,**

**Defendant.**

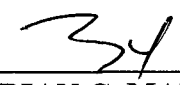
**Case No. CR-FE-2010-0020120**

**STIPULATION REGARDING**  
**ATTENDANCE OF A COURT**  
**REPORTER**

The parties above-named, by and through undersigned counsel, come now and hereby notify this Court that the parties request the attendance of a certified shorthand reporter, or any other such equivalent district court reporter certified in accordance with I.C.A.R. 21, to make a shorthand or a machine shorthand verbatim record of all oral communications made during the trial in the above case number. Not only is the attendance of said reporter required by I.C.A.R. 27(a), but the parties agree that said reporter will aid with the clarity of the record, and the potential in this case for immediate feedback of testimony is significant.

**DATED, this 27 day of July 2011.**

  
**JEFFREY S. WHITE**  
**Ada County Prosecutor's Office**

  
**BRIAN C. MARX**  
**Attorney for Defendant**

**STIPULATION REGARDING ATTENDANCE OF A COURT REPORTER**

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AUG 05 2011

CHRISTOPHER D. RICH, Clerk  
By ELAINE TONG  
DEPUTY

**GREG H. BOWER**  
Ada County Prosecuting Attorney

**Jeff White**  
Deputy Prosecuting Attorney  
200 W. Front Street, Room 3191  
Boise, Id. 83702  
(208) 287-7700 Telephone

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF

THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
LEE ODELL FAIR, )  
 )  
Defendant. )  
\_\_\_\_\_ )

**Case No. CR-FE-2010-0020120**

**STATE'S MOTION IN LIMINE**

**COMES NOW**, Jeff White, Deputy Prosecuting Attorney for Ada County, State of Idaho, and hereby moves this Court in limine for orders regarding the following matters:

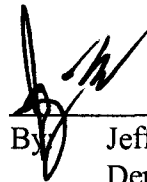
- If the defense calls potential witnesses Tommy Basco and/or Richie Laine to the witness stand, that the Court require both witnesses to be called and sworn outside the presence of the jury, as the State has been advised that both witnesses intend to refuse to testify on the grounds that their testimony may incriminate them.
- That the Court exclude the defense from calling as witnesses the following identified persons, on the basis that they have no relevant, admissible testimony to offer in the above-captioned matter:
  - Larson Firth

- Lynard Rood
- Whitney Hurd
- Megan Doar
- Nina Lucas
- Norman Ortiz-Perez

This motion is based upon the reasons set forth in the accompanying memorandum.

**RESPECTFULLY SUBMITTED** this 5 day of August 2011.

**GREG H. BOWER**  
Ada County Prosecuting Attorney



By \_\_\_\_\_  
Jeff White  
Deputy Prosecuting Attorney

### CERTIFICATE OF SERVICE

**I HEREBY CERTIFY** that on this 5th day of August, 2011, a true and correct copy of the foregoing State's Motion in Limine was served to **Brian Marx, Ada County Public Defender, 200 W. Front Street, Room 1107, Boise, ID 83702**, in the manner noted below:

- ☐ *By depositing copies of the same in the United States mail, postage prepaid, first class.*
- ☒ *By depositing copies of the same in the Interdepartmental Mail.*
- ☐ *By informing the office of said individual(s) that said copies were available for pickup at the Office of the Ada County Prosecutor.*
- ☐ *By faxing copies of the same to said attorney(s) at the facsimile number: \_\_\_\_\_*

  
\_\_\_\_\_  
Legal Assistant

AUG 05 2011

CHRISTOPHER D. RICH, Clerk  
By ELAINE TONG  
DEPUTY

**GREG H. BOWER**

Ada County Prosecuting Attorney

**Jeff White**

Deputy Prosecuting Attorney

200 W. Front Street, Room 3191

Boise, Id. 83702

(208) 287-7700 Telephone

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF

THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,

Plaintiff,

vs.

LEE ODELL FAIR,

Defendant.

Case No. CR-FE-2010-0020120

**MEMORANDUM IN SUPPORT  
OF STATE'S MOTION IN  
LIMINE**

**COMES NOW**, Jeff White, Deputy Prosecuting Attorney for Ada County, State of Idaho, and hereby presents the following Memorandum in support of the contemporaneously filed Motion in Limine.

**STATEMENT OF FACTS**

This statement of facts is derived from the following sources: police reports, the preliminary hearing transcript, defendant's jail calls, written witness statements, eyewitness interviews, and interviews of defense witnesses by state investigators.

The facts giving rise to the instant charge revolve around a series of events that occurred at Dino's bar on or about October 16, 2010. The alleged victim in this case, Jerry Blakely, was present at Dino's with three friends. Defendant was also present with at least two of his friends.

In jail calls, Mr. Fair has repeatedly alleged that Tommy Basco and Richie Laine were present with him at Dino's that night, although both Basco and Laine have repeatedly denied being present. An altercation occurred outside of the bar during which Defendant is alleged to have struck the victim in the face, causing serious facial injuries. Defendant has denied striking the victim, and claims Richie Laine is the real perpetrator of the aggravated battery.

Richie Laine, by and through his counsel of record Jolene Maloney, has advised the state that he intends to invoke the protections of the Fifth Amendment and refuse to testify as a part of the above-captioned case on the grounds that his testimony might incriminate him. Tommy Basco, in two separate telephone calls, has advised the state that he plans to do the same.

The defense has disclosed, among others, the following potential trial witnesses: Lynard Rood, Larson Firth, Whitney Hurd, Megan Doar, Nina Lucas, and Norman Ortiz-Perez. All claim to have not been present at Dino's on the night of the incident. Rood, Firth, and Hurd in interviews with state investigators have advised that they intend to testify to some variation of "Richie Laine told me he did it and Lee Fair is innocent." Nina Lucas and Norman Ortiz-Perez in interviews with state investigators have advised that they would testify that Defendant told them Richie Laine did it and Defendant is innocent, and that Richie Laine did not tell them that he (Laine) punched the victim. Megan Doar has refused all contact; it is unknown what (if any) relevant testimony she would have to offer as no one has claimed she is an eyewitness. The relevant portion of the investigative report on these potential witnesses is attached to this motion as "Exhibit A" and incorporated herein by reference.

### **ARGUMENT**

#### **I. DEFENSE WITNESSES BASCO AND LAINE SHOULD BE CALLED OUTSIDE THE PRESENCE OF THE JURY TO AVOID UNDUE PREJUDICE**

The invocation of the Fifth Amendment privilege by a witness can be unduly prejudicial. *See State v. Smith*, 116 Idaho 553 (Ct. App. 1989). If circumstances surrounding the invocation of the privilege give rise to an inference unfavorable to one side, that party will be unable to attack the inference through cross-examination. *Id.*; *see also State v. Major*, 105 Idaho 4 (1983). When it becomes clear that a witness will claim the protections of the Fifth Amendment and refuse to answer questions, best practices dictate that the Court have the witness take the stand outside the presence of the jury, and examine the witness as to the validity of their Fifth

Amendment claim. *State v. Ramsey*, 99 Idaho 1, 3 (1978). If the Court is satisfied that the witness' claim is well-founded, the Court may decline to allow either party to call the witness to the stand before the jury. *Id.*, see also *U.S. v. Gomez-Rojas*, 507 F.2d 1213, 1220 (5th Cir. 1975).

In the instant case, particularly in regards to Richie Laine, the State contends that it will be extremely prejudicial to its case if he is allowed to invoke the privilege in the presence of the jury. If the defense proceeds as expected, Laine will be painted as the "real perpetrator." Laine then subsequently taking the stand and claiming that truthfully answering questions about whether or not he struck the victim would incriminate him would create an obvious impression in the minds of the jurors that Laine is, in fact, the real offender. The State would be unable to dispel or lessen this impression through cross-examination or the introduction of Laine's prior recorded statements that he was not involved. The State further believes that no curative instruction would suffice in this instance.

Pursuant to *Ramsey*, the State asks that the Court determine the validity of both Basco and Laine's claims of invocation outside the presence of the jury and, if the Court finds them well-founded, preclude either party from ever calling Basco or Laine in the presence of the jury.

## **II. THE LISTED DEFENSE WITNESS TESTIMONY REGARDING ALTERNATE PERPETRATOR CONFESSIONS ARE INADMISSIBLE HEARSAY**

The right to present a defense in a criminal case is guaranteed by the Sixth Amendment. See generally *Washington v. Texas*, 388 U.S. 14 (1967). "This right is a fundamental element of due process." *Id.* at 19. Included in that right are the right to offer witnesses and evidence, compel the attendance of witnesses, and to present the defendant's version of the facts "to the jury so it may decide where the truth lies." *Id.* This right is not without limitations. It must be balanced against the legitimate interests of the state. *State v. Meister*, 148 Idaho 236, 239 (2009). "[T]he Sixth Amendment 'does not confer the right to present testimony free from the legitimate demands of the adversarial system.'" *State v. Albert*, 138 Idaho 284, 287 (Ct. App. 2002) (quoting *Taylor v. Illinois*, 484 U.S. 400, 412-13 (1988)).

The controlling authority in Idaho for the admissibility of "alternate perpetrator" evidence by the defense is I.R.E. 403. *Meister*, 148 Idaho at 241. If the "alternate perpetrator" evidence sought to be introduced consists of alleged confessions by another to the crime, the alleged confessions must meet the demands of I.R.E. 804(b)(3) to be admissible as a "statement against interest." *Id.* If the alleged confessions do not qualify as a "statement against interest" pursuant to

Meister relates to an alleged confession

I.R.E. 804(b)(3), then the statements are properly excluded as hearsay. *Id.* at 241 – 2. In criminal cases, I.R.E. 804(b)(3) requires more beyond the statement simply being against the interest of the declarant:

“A statement tending to expose the declarant to criminal liability and offered to exculpate the accused is not admissible unless corroborating circumstances clearly indicate the trustworthiness of the statement.”

I.R.E. 804(b)(3). The Idaho Supreme Court, adopting reasoning from the State of Arizona, has held that the trial Court’s inquiry when ruling on the admissibility of such statements must be limited to “whether evidence in the record corroborating and contradicting the declarant’s statement would permit a reasonable person to believe that the statement could be true.” *Meister*, 148 Idaho at 242 (*quoting State v. LaGrand*, 153 Arizona 21, 28 (1987)). If the alleged statements are deemed admissible, the Court identified seven factors to guide the trier of fact in determining the reliability and weight given to the alleged statements:

- Whether the declarant is unavailable;
- Whether the statement is against the declarant’s interest;
- Whether corroborating circumstances exist which clearly indicate the trustworthiness of the exculpatory statement, taking into account contradictory evidence, the relationship between the declarant and the listener, and the relationship between the declarant and the defendant;
- Whether the declarant has issued the statement multiple times;
- Whether a significant amount of time has passed between the incident and the statement;
- Whether the declarant will benefit from making the statement; and
- Whether the psychological and physical surroundings could affect the statement.

*Id.*, fn. 7<sup>1</sup>. The Court in *Meister* ultimately ruled that the trial court had applied an incorrect standard for determining the admissibility of the statements at issue in that case, and so it remanded the case to allow the trial court to apply the correct standard.

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<sup>1</sup> While the State’s position is that none of the alleged “confessions” are admissible or reliable in any way, if deemed admissible the State anticipates requesting a jury instruction on the seven-factor test.



The Arizona Supreme Court in *LaGrand*, however, actually did apply the reliability test to the statements in question, and its reasoning is highly instructive in the instant case. In that case, two brothers (Karl and Walter LaGrand) were together charged with murder (amongst other crimes). *LaGrand*, 153 Arizona at 23. Over a few different interviews with law enforcement, Karl LaGrand confessed to the crimes and claimed he acted alone. *Id.* at 24 – 25. At trial, Walter LaGrand asked to introduce Karl’s confession as a “statement against interest” exculpating him under A.R.E. 804(b)(3), which is identical to the Idaho Rule. *Id.* The request was denied. *Id.*

On appeal, the Arizona Supreme Court analyzed the record of corroborating and conflicting evidence surrounding Karl’s confession to determine its reliability. The Court found testimonial and physical evidence which corroborated Karl LaGrand’s confession, including him having a bruise on his leg, a victim claiming she was stabbed by only one person, and co-defendant Walter’s statements that he was out of the room at the time of the attack. *Id.* at 29. The confession was contradicted by witness certainty of more than one attacker being present, witness testimony of the brothers saying “Just make sure he’s dead,” and physical evidence of multiple weapons being used on one victim. *Id.* Evaluating this conflicting evidence in light of the corroborating evidence, the Court held that no reasonable person could believe Karl’s confession was true and exclusion was proper. *Id.*

Applying this test to the instant case, the State respectfully submits the following analysis based upon the known facts and expected testimony in the record.

- Corroborating evidence:

The only marginally corroborating evidence of which the State is aware is that all of the eyewitnesses have stated and/or testified that Mr. Fair was the bar with at least two other males, none of the witnesses expected to testify at trial knows the identity of either of the males, and one potential (but unavailable) witness may at some point have identified Richie Laine as having been present inside the bar at Dino’s for some unknown period of time prior to the altercation outside of the bar.

- Conflicting evidence

The conflicting evidence of Richie Laine as an “alternate perpetrator” is overwhelming. Two eyewitnesses have already testified under oath at a preliminary hearing identifying Defendant as the person who struck the victim. All eyewitnesses have stated that no one other than Defendant was anywhere near the victim at the time of the attack. Defendant claims to have

been present with Tommy Basco and Richie Laine; yet both Basco and Laine deny being present<sup>2</sup>. The State knows of no physical evidence that places Laine at the scene. The band playing at the Dino's that night has posted a photo album of the concert; Laine does not appear in any of the photos.

Four witnesses who were both present in Dino's bar and outside at the time of the attack were shown photo lineups that included Laine's photo; none of the four identified Laine as a person who was present at Dino's bar on the night of the incident. The four eyewitnesses were able to give accurate physical descriptions of Defendant and Tommy Basco, their physical descriptions of the third man with Defendant and Basco are dramatically different from Richie Laine. The "third man" was described as being short, approximately 5'6". Richie Laine is 6'3" and 3-4 inches taller than both Defendant (6'0") and Tommy Basco (5'11").

Furthermore, the credibility of the people Richie Laine supposedly "confessed" to is highly questionable. Lynard Rood is a co-defendant of Laine in a case involving Burglary and Grand Theft (CRFE-11-2928). Laine gave statements to the police incriminating Rood, then later testified against Rood at Rood's preliminary hearing earlier this year. Rood was then later convicted of Grand Theft in no small part due to Laine's willingness to testify. Larson Firth is Richie Laine's ex-girlfriend, a friend of both Defendant and his mother, and has been convicted of prescription fraud. Whitney Hurd is Defendant's fiancé, and admits to talking extensively with Defendant about the facts of the case before hearing Laine's supposed "confession." Nina Lucas and Norman Ortiz-Perez, putting aside that neither of them claim Laine actually made any statement against interest in their presence, also admit extensive discussions with Defendant about the facts of the case prior to ever speaking to Laine.

All of the statements by these witnesses are blatant hearsay. Nothing corroborates the possibility of Richie Laine as a viable "alternate perpetrator," certainly not to the degree of the properly excluded statements in *LaGrand*. Given the lack of corroborating evidence, and the overwhelming contradictory evidence, any and all alleged "confessions" of Richie Laine should be ruled as hearsay, inadmissible, and further State respectfully requests this Court exclude these

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<sup>2</sup> In candor to the Court, the State questions Mr. Basco's veracity on this point. Other witnesses place Mr. Basco at the bar, witnesses who do not know him identified a person with Defendant who matches Basco's physical description, and he was (and still is) on felony probation. Admitting to being in a bar that night would be a violation of his terms of probation.

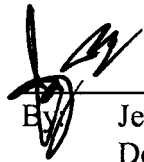
witnesses from testifying as any testimony from them would be irrelevant, confusing, and a waste of time.

**CONCLUSION**

For the reasons stated above, the State respectfully requests that this Court GRANT its Motion in Limine.

**RESPECTFULLY SUBMITTED** this 5 day of August 2011.

**GREG H. BOWER**  
Ada County Prosecuting Attorney

  
By \_\_\_\_\_

Jeff White  
Deputy Prosecuting Attorney

**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that on this 5<sup>th</sup> day of August, 2011, a true and correct copy of the foregoing Memorandum in Support of State's Motion in Limine was served to **Brian Marx, Ada County Public Defender, 200 W. Front Street, Room 1107, Boise, ID 83702**, in the manner noted below:

- ☐ *By depositing copies of the same in the United States mail, postage prepaid, first class.*
- ☒ *By depositing copies of the same in the Interdepartmental Mail.*
- ☐ *By informing the office of said individual(s) that said copies were available for pickup at the Office of the Ada County Prosecutor.*
- ☐ *By faxing copies of the same to said attorney(s) at the facsimile number: \_\_\_\_\_*

  
\_\_\_\_\_  
Legal Assistant

# ADA County Prosecuting Attorney's Office

## Investigations Report

To: Jeff White

Cc: Leti Hebert

From: Ron Axtman

Re.: Lee Odell Fair/ CR-FE-2010-20120

### **Lynard Rood Ada County Jail**

I interviewed Lynard Rood at the ADA County Jail on March 3, 2011. Rood is a prisoner at the ADA County Jail.

He was not aware that he was being called as a witness in the case involving Lee Fair. Rood stated that he did not talk with Fair, but he had talked with Richie Laine. He stated that he knew who Lee Fair was, but he actually ran around with Richie Laine.

Rood stated that Laine had bragged to him that he jumped over the top of Lee Fair and hit this guy with a flying superman – shattering some dude's jaw.

Rood knows Lee Fair from jail. The defense attorney's office has not talked with Rood. He has not received a subpoena to appear.

Rood stated that he would testify. He stated that Fair was a helper on a tile crew that he had about 6-7 years ago.

Rood characterized Fair as a quite, mild mannered – theft from Garden City. He stated that Fair was definitely not a fighter. Rood stated that he believed that Fair belonged to the SVC. He stated that the SVC stood for violence, but stated that just because someone belongs to the gang doesn't mean that they are a violent person.

Rood was not present at Dino's Bar in October. He reiterated that he had heard from Richie Laine that he had jumped over Lee Fair and hit another man on the chin. He stated that he heard Laine say these 2-3 months ago – the middle of December.

He was at a friend's house when he heard Laine talking about it. He stated that Laine was running around with Nina Lucas at the time, and she may have been there when Laine was talking about it.

**STATE'S  
EXHIBIT**

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Rood stated that Laine did not say much more than he jumped over Fair's shoulder. On the contrary Rood stated that Laine did not mention Fair at all, but he did tell him that there was another dude fighting Tommy Basco, and Laine jumped over and hit another man, blasted the man, shattered his jaw and put him in the hospital.

Rood stated that Nina Lucas told him that was what Lee Fair was in jail for.

**Richard (Richie) Laine**  
**ADA County Jail**

I interviewed Richard Laine on March 3, 2011. Laine is a prisoner at the ADA County Jail.

He was unaware that he was being called as a defense witness in the case involving Lee Fair.

He stated that he had not talked with the defendant about this case.

He met Lee Fair in prison in 2007.

Laine stated that he was not present at Dino's Bar with Lee Fair. He stated that he was with his girlfriend Kristin Mocker when the incident happened.

He stated that he remembered when the incident happened. He thought it was fall – November.

He was at his Mocker's apartment at the Landing Apartments at the corner of State Street and Colister.

Laine stated that Lee Fair called him the day after and told him what had happened.

Laine stated that Fair told him about the fight, and that someone had called him telling him that he need to fess up or something like that.

Laine stated that Fair did not tell him who was with him at Dino's Bar.

Laine stated that he has never been to Dino's Bar with Lee Fair, and he does not even know where Dino's Bar is.

Laine stated that he knows Tommy Basco. He stated that he was Basco's daughter's godfather.

He stated that he has talked with Basco about this incident – in that he knew that Basco had been called by Fair. Both Basco and Fair have talked with Laine about the fight.

Basco did not talk with Laine about the fight. He stated that Basco was not at Dino's Bar, he has a curfew, and he is on probation.

Laine has not received a subpoena, nor has he talked with the defense attorney's office.

**Tommy Samuel Basco**

I interviewed Tommy Basco on March 7, 2011. Basco is on Probation to the State of Idaho Department of Corrections. His probation officer is Tom Ledbetter.

I interviewed Basco at Ledbetter's office at District IV Probation and Parole.

He was aware that he is being called as a defense witness in the case involving Lee Fair. He has received a subpoena to appear, and he has talked with the defense attorney's office.

Basco stated that Fair's mother had been telling people that he was the one that hit the man at Dino's Bar.

Basco stated that Lee Fair picked him up to go workout at Gold's Gym. They have been workout partners in the past. While in the parking lot at his apartment Fair received a cellular telephone call from a man whom he thought had filed charges on Fair. Basco stated that he could hear the telephone call. Basco stated that the man told Fair that he knew that he did not do it, but if he would tell him who did – he would drop the charges on him. He stated that the man told Fair if he did not tell him who was responsible he was going to prosecute him because he knew that Fair was at the bar that night and he could identify him by the tattoo on his neck.

Basco stated that he lived with Fair for a period of time after he got out of prison one year ago.

Basco stated that he and Fair are not friends. He went into a lengthy story about Fair doing drugs – thus covering any culpability he might have by associating with Fair. Basco stated that Fair started doing methamphetamine 5-6 months ago.

At first Basco stated that he has never been to Dino's Bar with Fair, but he has been to Dino's bar when it was called something else. This was a year or two ago.

Basco stated that that he did go to Emerald Lanes with Fair and Fair went over to Dino's Bar and met some other people. He was unsure when this happened, but it was around that time frame he stated. He had no idea what time they arrived at Dino's Bar. This occurrence may have been before October he did not know.

Basco stated that Fair is always getting into the mix with someone referring to the altercation that may have occurred, but he stated that Fair did not get into a fight with anyone when he was there. He stated that he was present at a fight that Fair was involved in downtown. This occurred at the skate park.

Basco reiterated that he was at Emerald Lanes while Fair was at Dino's Bar. He stated that he was playing pool and bowling.

Basco stated that he had never been an altercation at Dino's Bar with anyone.

Basco rehashed the telephone call incident at the parking lot of the apartments – they were heading to Gold's Gym to work out. He stated that he thought that some guy's daughter had been hitting up on Fair on the Internet about him hitting her dad.

Basco stated that Fair told him that he absolutely did not do this. Fair told him that he was present at the fight, and he told him that there was a fight going on – but he had to leave to meet some other chicks or something like it.

Basco stated that he talked with the defense investigator and he told Basco that Fair had told him that Basco was there also. Basco denied being present.

Basco stated that there is no reason why someone would say that he was present, and if someone picks him out of a lineup indicating that he was there then it is bogus.

Basco stated that there are other people that are saying that someone else did hit the man at Dino's Bar, and he named Richie Laine as the man that they are talking about.

Basco stated that Fair and Laine were running around together.

Basco stated that he has never been in jail with Fair. He stated that he does not belong to SVC. Basco stated that Fair belongs to SVC.

Regarding the telephone call – Basco stated that he does not remember specifics to the conversation. He does not know the name of the man that called Fair, and Fair told him that he did not do it.

Basco stated that Fair has lied to him in the past.

Fair has never asked Basco to lie for him.

Basco stated that Fair has borrowed money from him and not paid him back. When asked about it Fair gave him a long story, and he knew that he had money because Fair went and got high. This was around the same time as the fight occurred.

Basco stated that he intends to come to court and tell the truth.

Basco stated that Fair was an idiot. If he weren't go to prison for this he would go for something else.

Basco stated that Fair is not a fighter, but he drinks too much or gets high and then goes out and does some dumb ass shit.

Basco was unsure whether or not Fair was the kind of guy that would punch some one from the blind side. Basco stated that if Fair were normal that this does not sound like him, but if he is on alcohol or drugs he will do some dumb ass shit.

**Larson Noel Firth**  
**Idaho Department of Corrections**  
**SBWCC Unit 2**  
**(208) 334-2731**

I interviewed Larson Firth on March 2, 2011.

Larson Firth is in custody at the Idaho Department of Corrections Women's Facility SBWCC Kuna, Idaho. Her caseworker is Sandra Hunt.

Firth was aware that she had been named as a witness in this case. She has talked with the public defender's office.

She was not present at Dino's Bar in October. She thought that she was in jail at this time. She stated that she was dating Richard Laine at the time.

Richard Laine told her that he was the one that hit the man that Lee Fair is being accused of.

She knows Lee Fair from her brother John Henry. Her brother and Fair are involved with SVC in prison.

She has known Lee Fair for approximately 8 months. She met Fair in July of 2010.

She characterized Fair as not a violent person. She knew that he has a drug problem. She stated that she knew that Fair did not hurt the man that they are accusing him of hurting. She knows that Richie Laine did it.

Firth stated that in July she smoked marihuana with Fair and drank alcohol. She stated that Fair does methamphetamine. She stated that she has been present when Laine and Fair were doing methamphetamine. She stated that this occurred at the end of October beginning of November.

Firth stated that she got out of jail on October 11<sup>th</sup> and Fair and Laine were running with each other and doing methamphetamine at the time.

The defendant has not talked with Firth about his case.

She did not hear anything about this case until the defendant was arrested.



Firth stated that Laine told her about his involvement the day after the defendant was arrested. She stated that they were living in Meridian off of Black Cat Road at the time.

Firth stated that Laine had told her that he, Lee Fair, and Tommy Basco had gone to the bar. Some guy ran up on Tommy Basco and went to hit him, and Richie hit the guy that Lee is being accused of hitting.

Firth stated that Basco was fighting with someone else. The guy that got hurt was running up to Basco, and Richie hit the man to prevent him from hitting Basco.

Firth stated that Basco, Fair, and Laine are out together. She stated that she thought they were driving Tommy's white Cadillac or Tommy's girlfriend's car – a black Volvo. Firth stated that Richie does not drive, but he could have been she does not know.

She did not know who left to get the car and then returned.

She stated that Richie could have been with a girl at the bar. He was also seeing Candice Honeysuckle.

Laine told Firth that he hit the man in the face, and the guy instantly fell. He said he knocked the man out. Laine was bragging about doing so, and not because he was protecting Fair.

She does not know Joel Hoffman or Gerald Blakely. She had heard of Laura Suydam she stated.

She stated that she personally frequents Dino's Bar. She has been there often.

Firth stated that Tommy Basco hangs out in a lot of different bars. He is known for fighting.

Firth did not know about Basco playing pool with Hoffman. Richie only talked with her about the fight. She stated that the fight occurred right outside of Dino's Bar.

Firth stated that she has gone downtown with them and they cannot go out without getting into two or three fights.

Firth stated that she thought it was a dominance thing. She stated that they have to show that they are bigger and badder than everybody else.

She did not think it was a gang mentality thing, but with Tommy and Richie she thought that it was a dominance thing so that people would look at them and recognize that they were the alpha dogs. She has been present when they have gotten into fights. She stated that Basco picks fights. For the most part Laine just backs up Basco. She stated that they are both instigators.

Firth stated that she talked with the defendant two or three weeks ago. Fair asked her if she was going to be able to help him. She stated that she would let people know that Laine told her he did it, but she prefaced that she was not there.

Fair did not ask Firth to lie for him in court. She would not do such. If she comes to court she intends to tell the truth.

### **Whitni Hurd**

Whitni Hurd is listed as a defense witness in this case. She was interviewed on May 11, 2011.

Hurd stated that she met Lee Fair through Candice Honeymiller in November of 2010. Honeymiller was dating Ritchie Lane at the time.

She stated that Honeymiller told her everything that had happened at the bar. Currently, Hurd and Fair are engaged to be married.

She characterized Fair as being honest, and she has never had a problem with him. She stated that he was affiliated with a gang while ago. He has a tattoo. She affirmed that it was SVC.

Hurd stated that she has met a few guys that are in the gang, but Fair never hung out with them since she has known him.

She was not aware that she was being called as a witness. She has not talked with the defense attorney in this matter, nor has she received a subpoena to appear as of yet.

She was not present at Dino's Bar in October of 2010. Hurd stated that she did not know Fair at the time of the incident. He was out of jail when she met him. She thought Fair went to jail on/or about Thanksgiving in November.

Hurd stated that Fair talked with her about this case extensively. She stated that she asked Fair what he was in trouble for when he got arrested. Fair told her that they were at a bar, there was a fight, and Richie Lane punched a guy in the face, while he was running to the car/truck. Tommy Basco was also there.

Fair told her that the victim had called him and told him if he told him who it was then I won't say it was you.

Hurd stated that the truck belonged to Tommy Basco.

Hurd changed up a bit at this point in the interview when she stated that she heard the story more from Richie Lane than she did Lee.

She stated that she did not know the name of the guy that Richie Lane punched.

She stated that Lee told her about the fight at the bar in November when she met him. He did not talk a lot about it just that Richie got in a fight at a bar. He didn't think anything would happen, but this guy kept calling him.

She stated that Fair did not think it was funny that the guy got punched. Hurd stated that Richie Lane moved in with Candice Honneymiller and her. She thought it was January when he moved in. At the time Richie was doing a lot of drugs.

One day when they were talking Richie told her the story. He told her that they were in a bar and drinking. He was talking shit to this guy, and they went outside. Tommy Basco said he started fighting with this kid. She could not remember his name. Richie went up and punched the guy, while Lee was already running to the truck. Richie stated that he was not going to go up to it with the police.

Hurd stated that Lane told her about his involvement in January and she did not know that much about it in December using this rationale to her not coming forward at preliminary hearing time. She had previously told me that Lee Fair told her about the incident in November when she met him. She said she was skeptical thinking of why was Lee getting in trouble for something that he did not do. When she talked with Richie – he admitted it. She stated that he admits it to everybody.

Hurd stated that Richie Lane was doing methamphetamine heavily before he moved in with them in January. She stated that he had holes in head from getting into a fight. He talked about getting in fights and punching girls.

Hurd stated that she has not done methamphetamine with Lee Fair or Richie Lane. She has not been there while they have been doing it either.

Lee Fair has not asked her to lie for him in court. He has not promised her anything for her testimony in court.

Hurd stated that Candice Honneymiller knows a lot more than she does and she does not want to testify because she is Richie Lane's girlfriend. Honneymiller was not at the scene, but Lane went to her house after the fight. He had a hurt hand, and he told her that he punched out an old man. Hurd stated that Honneymiller sent letters to Lee Fair stating that she knew that Richie Lane did it – Lee did not do it. Lane told Candice that he did it.

Hurd stated that she had a telephone number for a girl that was at the bar and saw the whole thing, but she does not want to come forward with the information. Hurd was asked to get the number for the girl.

### **Megan Doar**

I was unable to speak with Megan Doar, however I spoke with her mother Joann Sunderland at the number listed. Sunderland stated that Megan probably was not going

to testify. She is keeping Megan away from the influence of those associated with Lee Fair. Mom says that Megan has been labeled as a snitch and is staying away from those calling her so.

Megan has not spoken with the defense attorney in this case, and she has not received a subpoena to appear. I called and left messages on 5/3, 5/5, and 5/9 for Megan to call me. She never did.

**Nina Ann Lucas  
SBWCC Unit 2  
13200 S Pleasant Valley Rd.  
Kuna, Id 83634**

Nina Ann Lucas was interviewed on July 25, 2011. She was aware that she might be called as a witness in this case. She has talked with several investigators/detectives in regard to cases. She didn't know if she spoke with the Public Defenders Office in regard to the case. She has not received a subpoena to appear.

She has known the defendant for a while. She met him when she was doing drugs through mutual friends, to include Richie Laine.

She characterized the defendant as a decent kid who does lots of stupid shit. On the street he will do what ever he is told. She did not think that he was an evil person, but he will do what ever you tell him to do.

She stated that he was honest, and she did not know if he ever lied to her in the past.

She was not present at the scene of the aggravated battery in October 2010. Lucas stated that she talked with Lee Fair about this case, which was contrary to the question if she had talked with him and she answered no she had not. She rationalized it by saying she did not now what case I was speaking of.

She stated that she also talked with Lee Fair's mother on Face Book about the case.

She stated that Lee's mother did not contact her first, but said that it was on Face Book, and rumor around town. Then she said she could not honestly tell me if Lee's mother contacted her, or if she contacted Lee's mother.

She did not know when she talked with Lee's mother. She stated that it would be on Face Book, after it happened, and Lee was in Jail. Lee's mother did not want her to do something specific in regard to the case, but to just be there for Lee. She reiterated that he was a good kid with a good heart; he just does a lot of dumb things.

Lucas stated that when she talked with the defendant about the incident he told her that he did not do it. The defendant told her that Richie Laine did it. She stated, as far as she knew it was just the defendant and Richie Laine at the bar that night. She heard rumors

that Tommy Basco was there also, but she did not know for sure. She could not remember if the defendant told her that Basco was at the bar with him.

The defendant told her that Richie Laine beat some guy up real bad. She did not know how it happened, it just turned into a bar fight. As far as she knows the defendant and Richie Laine were drinking at the bar. She stated that the defendant told her that some guy puffed up on them. She did not know why. She stated that she did not really pay attention to what he was saying.

She stated that the defendant was adamant about doing it and that Laine had done it, but he was willing to take the fall for it.

Lucas stated that she talked with Richie Laine about the incident. She stated that he told her that he was there. He did not tell her if he did it or did not do it. But he did tell her that Lee Fair was going to man up and take it.

Lucas did not know who all was with them at the bar. She only caught bits and pieces of the story. She did not know what time it happened. She did not know how long they were in the bar, or how much they had to drink.

Lucas stated that it is possible that Lee Fair punched the man and then made up the story that Richie Laine did it. To Lucas it was not something that she thought he would do. She stated that it was something that she thought Laine would do. She has seen things Laine has done that were outlandish to people.

Lucas had no idea why she was involved in this case. She does not want to be involved.

Lucas just got out of a relationship with Jason Burgess. Detectives talked with her about Burgess. She stated that she jumped in pretty hard into this part of her life. She stated that the only reason she is involved in any of this is because she sold them all dope.

Lucas was unsure that whether or not she sold Fair dope on the night of the incident. She stated that Fair and Laine were using methamphetamine every day.

Richie Laine did not tell Lucas whether or not Tommy Basco was at the scene. She stated that as far as anyone knows Richie Laine did it and Lee is talking the fall.

Lee Fair did not ask her to lie for him in court. She stated that she would not do that. She did not know if she would testify in this case, but she would do what she had to.

She heard that the victim in this case got hurt pretty bad. Some people said he had to go to the hospital.

Fair never promised her anything in exchange for her testimony. He never traded possessions for dope. He paid cash.

Erin Miley was going with Lee Fair at the time of the incident. Larsen Firth was seeing Richie Laine.

Lucas stated that she did not know the day that she talked with Fair. She stated that her brain was fried from all the years that she did drugs.

**Norman Ortiz-Perez**  
**Ada County Jail**

Norman Ortiz-Perez was interviewed on August 3, 2011. He is currently an inmate at the Ada County Jail.

Ortiz-Perez stated that he has known Lee Fair for some time. He was housed with him at the Ada County Jail, but before that time he became acquainted with him through his brother. He speculated that he has known him for 3 years.

Ortiz-Perez was arrested in November 2010. Lee Fair became his cell mate a month or 2 months later he stated. They had two other cellmates. He thought one was Shawn. He was uncertain of the names of the other two cellmates.

Ortiz-Perez stated that although he has been in prison before, he has not been there with Lee Fair.

Ortiz-Perez does not belong to SVC. He stated because he is not white he does not belong. He does not belong to any gang, and he does not believe it gangs.

Ortiz-Perez stated that Fair was a dumb youngster. He stated that only dumb people belong to gangs. He then gave a rendition of why he thought Fair belonged to SVC.

Ortiz-Perez was not present at the scene of the aggravated battery in 2010.

While Ortiz-Perez was incarcerated with Fair, Fair told him about the incident. He stated that Fair told him that Tommy Basco, and Richie Laine, asked him to go to Dino's Bar in Boise. Ortiz-Perez knows Basco from the street. He did not do time with him.

Ortiz-Perez stated that Fair told him that they were drinking at Dino's Bar. Fair told Ortiz-Perez that Basco came up to Richie Laine and him in the bar and stated that there were a couple of fools that wanted some trouble. Ortiz-Perez stated that Fair told him that someone, a person who he does not know the name of, pulled Fair to the side and told him not to get involved with the fight.

Ortiz-Perez stated that he thought Tommy Basco drove the group to Dino's Bar. He did not know what they were driving that night.

Ortiz-Perez thought they arrived at the bar at 9-10pm. He was not sure. They were in Dorm 7/4 when Fair told him this story. Fair was bonded out at he has not talked with him since.

Ortiz-Perez stated that Fair told him that he and Richie Laine were best friends at the time. He continued that Fair told him that the argument that started inside the bar went outside. Fair did not tell Ortiz-Perez what the argument was about.

Fair told him that Tommy Basco was fighting with someone outside the bar. Richie Laine was getting all pumped up. Fair told him that he, (personally), was standing beside and old guy. According to Ortiz-Perez – Fair told him that the old guy knew that he was with Basco, and Laine. Ortiz-Perez stated that the old guy was making sure that nobody jumped in the fight between Basco at the other person.

Ortiz-Perez will testify that Richie Laine knocked the old guy out. Fair told him that he asked Laine what he was doing. Fair told Ortiz-Perez that he was drunk/a little buzzed, and there were some other people that were trying to get Fair out of the mess. He did not know the names of the people that were trying to do so. He stated that he could not remember the names of the people that were trying to get Fair out of the situation. He thought there were a girl and a guy. He thought the guy was a black man.

Fair told Ortiz-Perez that he walked away from the fight. Ortiz-Perez stated that he thought the only person that the people involved in the fight knew was Fair because of the tattoo Boise on his neck. Fair walked to his house that night.

Fair told Ortiz-Perez that a couple of days later Richie Laine called him and told him that nothing was going to happen about the fight.

A couple of months later Lee Fair was arrested.

Ortiz-Perez thought that the old guy and Lee Fair said something to each other while the fight was going on. He did not know what the old guy said to Fair. Nor did he know what Lee Fair might have said to the old guy.

Fair did not tell Ortiz-Perez that he hit anyone that night.

Ortiz-Perez stated that he did not know Richie Laine at the time. A couple of days after telling him the story of the fight at Dino's Bar Fair told him about Laine. Ortiz-Perez then comes to find out that Laine is also incarcerated in the Ada County Jail.

Fair told Ortiz-Perez that the old guy was saying something to Tommy Basco and the guys fighting. Laine walked by and heard the old guy saying something, and he hit him. He old guy did not see who hit him. Fair told Ortiz-Perez that when he started walking away the old guy saw him. He stated that Fair was running away at this point.

A couple of months later Richie Laine came to their day room in Dorm 7. Ortiz-Perez stated that Laine came to his room. He was reading his bible at the time. Ortiz-Perez stated that they started talking smack right then. Fair told him at that time he was Richie Laine. He was reading the bible and listening what Laine and Fair were talking about.

Ortiz-Perez stated that Laine told Fair what he was in jail for. Fair in turn told Laine that he was here in jail because of what Laine had done. He stated that Laine said that there was no way that he was going to tell on himself, he was going to try and bond out.

Ortiz-Perez stated that during the argument between Fair and Laine – Fair mentioned that his sister sent him a txt asking him to admit that he punched the old guy. Laine and Fair then started to argue more. He reiterated that Laine said that he was not going to tell on himself.

Ortiz-Perez stated that Laine did not say that he was the person that punched the old guy that night. He stated that Laine said he was not going to tell on himself, and they argued back and forth. He then stated that Laine admitted that he was the one that did it. There was another man present when Laine made these statements in front of Ortiz-Perez. His name is Shawn. Ortiz-Perez then changes his tune from Laine admitting it in front of him, back to I'm not going to tell on myself.

Ortiz-Perez then talked about an argument that Laine and Fair had concerning an old girl friend. Fair accused Laine of having sex with her. He said that the girls name was Erica.

At this time Ortiz-Perez and Fair are in Dorm 7/4. Laine is in Dorm 7/2. He talked about letters coming to Fair from friends, and even the police saying that they knew that he did not do it, that Richie Laine did. He did not know who wrote the letters. More than 15 people.

Ortiz-Perez is going to take the stand and testify that Richie Laine told him, "I ain't going to tell on myself." He did not say that Laine told him that he hit the old guy. Ortiz-Perez stated that he believed that Richie Laine did it.

Fair did not tell him how much he had to drink that night. Fair told him that he was not that drunk. (Earlier Ortiz-Perez stated that when Fair was running away he was drunk/ buzzed). He did not know if Basco and Laine were drunk. He stated that he heard that Laine was pretty buzzed.

A couple of months later Laine is back in jail. Ortiz-Perez is not sure when this was. They were playing cards in the day room. Jesse and Sane were playing cards with them. Laine was talking about the case/fight. He stated that Laine said he took off running, but then changed and said that Fair was the one that took off running. To Ortiz-Perez Laine was putting Fair down because he was walking off. Ortiz-Perez became angry and walked away.

This took place a couple of months after Fair had bonded out.



AUG 05 2011

CHRISTOPHER D. RICH, Clerk  
By ELAINE TONG  
DEPUTY

**GREG H. BOWER**  
Ada County Prosecuting Attorney

**Jeffrey S. White**  
Deputy Prosecuting Attorney  
200 West Front Street, Room 3191  
Boise, Idaho 83702  
Phone: 287-7700  
Fax: 287-7709

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF


THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,	)	
	)	
Plaintiff,	)	<b>Case No. CR-FE-2010-0020120</b>
vs.	)	
	)	<b>SEVENTH ADDENDUM TO</b>
LEE ODELL FAIR,	)	<b>DISCOVERY RESPONSE</b>
	)	<b>TO COURT</b>
Defendant.	)	
_____	)	

**COMES NOW**, Jeffrey S. White, Deputy Prosecuting Attorney in and for Ada County,  
State of Idaho, and informs the Court that the State has submitted a Seventh Addendum to  
Response to Discovery.

**RESPECTFULLY SUBMITTED** this 5 day of August, 2011.

**GREG H. BOWER**  
Ada County Prosecuting Attorney

  
By: \_\_\_\_\_  
Jeffrey S. White  
Deputy Prosecuting Attorney

AUG 08 2011

CHRISTOPHER D. RICH, Clerk  
By MAURA OLSON  
DEPUTY

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JT  
8/9  
9:30

ADA COUNTY PUBLIC DEFENDER  
Attorneys for Defendant  
200 West Front Street, Suite 1107  
Boise, Idaho 83702  
Telephone: (208) 287-7400  
Facsimile: (208) 287-7419

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF

THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,	)	
	)	Criminal No. CR-FE-10-20120
Plaintiff,	)	
	)	DEFENDANT'S RESPONSE TO
vs.	)	STATE'S MOTION IN LIMINE
	)	
LEE FAIR,	)	
	)	
Defendant.	)	
	)	

COMES NOW, the above-named Defendant, Lee Fair, by and through his Attorney of Record, the Ada County Public Defender's Office, BRIAN MARX, handling attorney, and hereby responds to the State's Motion in Limine.

I. TOMMY BASCO

The Defense intends to call Tommy Basco during the Defense portion of the case. Basco has been interviewed by the state as well as the Defense. Basco indicated a few days after the alleged incident he overheard a phone call with a male individual and Mr. Fair regarding a fight the male individual was in. Basco asserts that the male individual told Mr. Fair

MO

that the injuries the male individual suffered were not Mr. Fair's fault but that without Mr. Fair telling him who threw the punch, Mr. Fair would continue to be blamed for the incident. A jury could reasonably infer from the facts and circumstances that the call Basco overheard was with the accuser in this case. The accuser does admit calling Mr. Fair, although he denies this being the topic of conversation.

While Basco has denied being present during the actual alleged incident as the state has pointed out, Basco is currently on felony probation and his presence at that bar would result in a probation violation. Further, as the state indicates on Page 6, Footnote 2 of its motion there is some further indication that Basco may have been present at the bar. As a result of this information and Basco's potential for criminal liability through a probation violation, Basco has informed Defense Counsel and the State that he intends to assert his Fifth Amendment Right against Self Incrimination.

As to Basco, the Defense does agree that his assertion of his Constitutional Rights is required to occur outside the presence of the jury. If Basco chooses to assert his rights, the Defense asserts he is then unavailable pursuant to Idaho Rules of Evidence (I.R.E.) 804(a)(1) and his testimony should then be admitted pursuant to I.R.E. 804(b)(6), through the Defense Investigator as well as through the State's

Investigator, both of whom interviewed Basco. This testimony would be offered as evidence of a material fact that Mr. Fair is not guilty of the crime as charged, the statement is more probative on the point than any other available evidence, and the general purposes and the interests of justice would be served by the admission of the testimony.

## **II. WHITNI HURD AND MEGAN DOAR**

While the state references a Whitney Hurd and a Megan Doar in its motion, the Defense has no intent to call either of those individuals at the jury trial in this matter.

## **III. ALTERNATIVE PERPETRATOR EVIDENCE AND RICHARD LAINE**

The Defense anticipates calling Richard Laine to testify in this case. Laine's attorney, Jolene Maloney, has informed the State and the Defense that Laine intends to invoke his right to remain silent were he called to testify. Defendant asserts that if the Court were to exclude the witnesses listed per the State's request and allow Laine to invoke his rights outside the presence of the jury Mr. Fair's right to a fair trial and to present a defense would be unduly prejudiced.

If Laine were indeed not at the bar that night then he has no valid claim to invoke his rights as there could be no questions regarding the incident that he would answer that would incriminate him. If no valid claim to invoke his rights exists, Laine should be compelled to testify and the Defendant should be

allowed to cross examine and impeach Laine with statements made to multiple witnesses regarding his alleged involvement.

However, the Defendant asserts Laine was present at the bar the evening of the incident. Laine's intent to invoke his rights on the grounds that answering questions regarding that evening may incriminate him, gives credence to the argument that Laine was there. Defendant requests that this Court declare Laine unavailable pursuant to I.R.E. 804(a)(1) and allow testimony of his prior statements pursuant to I.R.E. 804(b)(3). Mr. Laine should not be allowed to use his Constitutional Rights in an attempt to thwart Mr. Fair's right to due process and a fair trial. The statements made by Laine would not have been made by a reasonable person in Laine's position without Laine believing they were true.

Defendant asserts that Laine's statements meet the standards laid out in *State v. Meister* 148 Idaho 236, 242, fn.7 (2009). If the Court allows Laine to assert a valid Fifth Amendment Privilege, Laine would be unavailable. Laine has made statements to multiple individuals regarding his involvement in the events that evening. The testimony the Defendant intends to proffer would be statements made against Laine's interest in that they place him at the scene of a bar fight, and some of the statements can be perceived as confessions to the crime Mr. Fair is charged with. Laine has issued the statements multiple

times. It would appear that one of the only people Laine actually denies being present to is the State's Investigator. However, at the time Laine was interviewed by the State he was being prosecuted (and still is) by the Ada County Prosecutor's Office and an argument can reasonably be made that a denial of being present by Laine could have been done in an attempt to garner favor with the State.

Defendant asserts that there are corroborating circumstances that indicate a trustworthiness of the testimony Defendant intends to produce. While speaking with the Defense Investigator, Laine admitted to being present at Dino's the night of the incident and while refusing to admit responsibility for the incident did indicate the battery was not committed by Mr. Fair.

The State asserts that Lynard Rood has an axe to grind with Laine because they were co-defendants and Laine testified against Rood at the preliminary hearing. It would appear from ISTARS, Laine did not testify until March 10, 2011. Rood gave his statements regarding Laine to Defense Counsel in February and to the State March 3, 2011. These statements came before Laine took the witness stand in that case. Rood pled guilty to his case as the result of a plea deal and took responsibility for his actions that led to his arrest. At the most this issue

would go to the weight the jury could give the statements but should not amount to their outright exclusion.

Defendant does concede that Larson Firth was dating Laine for a period of time. However, as with Rood that is something that should go to the weight of the statement not the exclusion of the statement. Laine made admissions to Firth that he is the one that punched and knocked down the accuser in this case.

Nina Lucas has told investigators from both sides that Laine told her he was present at the incident. Norman Ortiz-Perez has told investigators from both sides that when the incident came up in conversation at the jail, Laine did not deny that he was involved in the incident but rather stated he was not going to tell on himself. A jury could reasonably infer that this is an admission of guilt. A reasonable person would have denied the incident not said that they "were not going to tell on themselves." Ortiz-Perez also gives an indication in his interviews that Laine makes statements regarding who ran off during the fight. This is information that Laine would have likely obtained by being present during the fight.

The bar manager/owner, in interviews with the State has indicated that her sister was working in the bar that evening. The bar manager/owner indicates that her sister has stated that Tommy Basco and another individual likely to be Richard Laine were present at the bar that night. Efforts by both sides to

attempt to speak with and locate the sister have not been successful. It appears that the sister is actively avoiding involvement with this case. If appropriate during the trial, the Defendant may seek to declare the sister unavailable and request this Court to admit these statements via the unavailable witness requirements discussed throughout this motion.

The statements made by these witnesses during interviews to the parties are fairly consistent. The number of individuals that Laine made statements to should be seen as corroboration by itself. It cannot be argued that Mr. Fair has orchestrated a grand scheme to get multiple witnesses to scheme against Laine. Defendant requests that these witnesses be allowed to testify regarding the statements Laine made to them and not be excluded. Defendant would object to any special jury instructions regarding the weight the jury should give these witnesses as being improper.

Defendant disagrees with the State's portrayal of the strength of its case against Mr. Fair. Of the four eyewitnesses the State has indicate it will call, two of those eyewitnesses have given statements indicating they did not see the accuser get hit in this incident. The other two eyewitnesses include the accuser. Defendant has asserted in a prior motion that their identification should be excluded in large part to a faulty photo lineup they took part in. Further, Defendant



asserts there are several inconsistencies in their testimony at the preliminary hearing. The state asserts that photo lineups including Laine were given to these witnesses and that Laine was not identified. However, the conducting of the lineups was not audio or video recorded and failing to pick an individual out of a lineup does not mean that individual was not present.

Defendant respectfully requests the Court deny the State's Motion in Limine, with the exception of Mr. Basco asserting his rights outside the presence of the jury.

Court **DATED**, this 1 day of August, 2011.

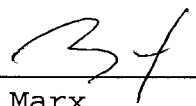
  
\_\_\_\_\_  
**BRIAN MARX**  
**Attorney for Defendant**

**CERTIFICATE OF MAILING**

I HEREBY CERTIFY, that on this 1 day of August, 2011, I  
mailed a true and correct copy of the foregoing to the:

Ada County Prosecutor

by email.

  
\_\_\_\_\_  
Brian Marx

147  
JT  
8/9  
9:30

**AUG 08 2011**

CHRISTOPHER D. RICH, Clerk  
By MAURA OLSON  
DEPUTY

**ADA COUNTY PUBLIC DEFENDER**  
**Attorneys for Defendant**  
**BRIAN C. MARX, ISB #7694**  
**Deputy Public Defender**  
**200 West Front Street, Suite 1107**  
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**Telephone: (208) 287-7400**  
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**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF**  
**THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

**STATE OF IDAHO,**  
**Plaintiff,**  
**vs.**  
**LEE ODELL FAIR,**  
**Defendant.**


**Case No. CR-FE-2010-0020120**

***ADDENDUM TO DEFENDANT'S LIST***  
***OF POTENTIAL TRIAL WITNESSES***

**COMES NOW**, LEE ODELL FAIR, the defendant above-named, by and through counsel BRIAN C. MARX, Ada County Public Defender's Office, and provides the following list of the defendant's potential trial witnesses:

- k) Julie Navarro

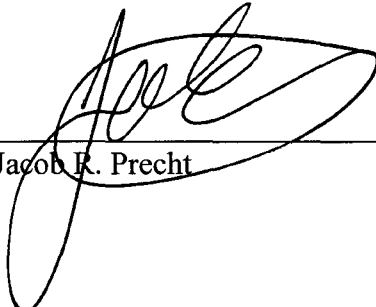
**DATED**, Monday, August 08, 2011.

  
\_\_\_\_\_  
**BRIAN C. MARX**  
**Attorney for Defendant**

**CERTIFICATE OF MAILING**

**I HEREBY CERTIFY**, that on Monday, August 08, 2011, I mailed (served) a true and correct copy of the within instrument to:

**JEFFREY S. WHITE**  
**Ada County Prosecutor's Office**  
**Interdepartmental Mail**

  
\_\_\_\_\_  
Jacob R. Precht

MO

Session: Bail080911  
Session Date: 2011/08/09  
Judge: Bail, Deborah A.  
Reporter: Gambee, Susan

Division: DC  
Session Time: 11:35

Courtroom: CR510

Clerk(s):  
Therrien, Tara

State Attorney(s):  
White, Jeff

Public Defender(s):  
Marx, Brian

Prob. Officer(s):

Court interpreter(s):

---

Case ID: 0001

Case number: CRFE10-20120

Plaintiff:

Plaintiff Attorney:

Defendant: Fair, Lee

Co-Defendant(s):

Pers. Attorney:

State Attorney: White, Jeff

Public Defender: Marx, Brian

2011/08/09

13:39:22 - Operator

Recording:

13:39:22 - New case

Fair, Lee

13:39:26 - Judge: Bail, Deborah A.

Calls case, defendant is present with counsel

13:39:39 - Judge: Bail, Deborah A.

Will not take up Motions in Limine right now

13:40:53 - State Attorney: White, Jeff  
Would like to amend the information by interlineation

13:41:25 - Judge: Bail, Deborah A.  
Will amend the information by interlineation

13:42:14 - Operator  
Stop recording: (On Recess)

13:50:25 - Operator  
Recording:

13:50:25 - Record  
Fair, Lee

13:50:27 - Judge: Bail, Deborah A.  
Court resumes, prospective jury panel is present

13:50:49 - Judge: Bail, Deborah A.  
Both sides are ready to proceed

13:50:59 - Judge: Bail, Deborah A.  
The Clerk calls roll

13:55:47 - Judge: Bail, Deborah A.  
The Clerk swears in the prospective jury panel

13:56:09 - Judge: Bail, Deborah A.  
The Court reads the information

13:56:50 - Judge: Bail, Deborah A.  
The Court voir dres the prospective jury panel

14:13:20 - Judge: Bail, Deborah A.  
The Clerk calls 27 names

14:15:38 - Judge: Bail, Deborah A.  
Juror # 220 is excused by the Court with cause

14:22:05 - State Attorney: White, Jeff  
Voir dres the prospective panel

14:46:56 - State Attorney: White, Jeff  
Passes the panel with cause

14:47:05 - Public Defender: Marx, Brian  
Voir dres the prospective jury panel

14:47:21 - Public Defender: Marx, Brian  
Passes the panel with cause

15:06:19 - Judge: Bail, Deborah A.  
Excuses the the remaining panel

15:06:48 - Judge: Bail, Deborah A.  
Counsel exercises peremptory challenges

15:17:48 - Judge: Bail, Deborah A.  
The Court seats the trial jury

15:25:41 - Judge: Bail, Deborah A.  
Excuses the remaining panel

15:27:23 - Judge: Bail, Deborah A.

The Court recesses

15:28:02 - Operator

Stop recording: (On Recess)

15:45:58 - Operator

Recording:

15:45:58 - Record

Fair, Lee

15:45:59 - Judge: Bail, Deborah A.

Court resumes, the jury is not present

15:46:07 - Judge: Bail, Deborah A.

Will take up Motions in Limine

15:46:17 - Judge: Bail, Deborah A.

Will require offer of proof

15:52:38 - Public Defender: Marx, Brian

Argues Motion in Limine regarding photo line-ups

15:54:07 - State Attorney: White, Jeff

Argues in opposition of Motion in Limine

15:55:40 - Judge: Bail, Deborah A.

Denies Defendant's Motion in Limine regarding photo line-up

15:59:20 - Judge: Bail, Deborah A.

The jury is now present

16:00:03 - Judge: Bail, Deborah A.

The Clerk swears in trial jury

16:00:35 - Judge: Bail, Deborah A.

The Court instructs the jury

16:15:58 - State Attorney: White, Jeff

Makes opening statements

16:24:56 - Public Defender: Marx, Brian

Makes opening statement

16:26:28 - Judge: Bail, Deborah A.

Court recesses for the evening, admonishes the jury

16:28:42 - Operator

Stop recording:

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Session: Bail081011  
Session Date: 2011/08/10  
Judge: Bail, Deborah A.  
Reporter: Gambee, Susan

Division: DC  
Session Time: 08:27

Courtroom: CR510

Clerk(s):  
Therrien, Tara

State Attorney(s):  
White, Jeff

Public Defender(s):  
Marx, Brian

Prob. Officer(s):

Court interpreter(s):

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Case ID: 0001

Case number: CRFE10-20120

Plaintiff:

Plaintiff Attorney:

Defendant: Fair, Lee

Additional audio and annotations can be found in case: 0007.

Co-Defendant(s):

Pers. Attorney:

State Attorney: White, Jeff

Public Defender: Marx, Brian

2011/08/10

09:33:18 - Operator

Recording:

09:33:18 - New case

Fair, Lee

09:33:26 - Judge: Bail, Deborah A.

Calls case, jury is not present

09:33:33 - State Attorney: White, Jeff

Would like to exclude witnesses  
09:34:21 - Judge: Bail, Deborah A.  
Witnesses are excluded  
09:34:32 - Judge: Bail, Deborah A.  
Jury is now present  
09:35:53 - State Attorney: White, Jeff  
Calls Gerald Blakely sworn, direct examination  
09:38:18 - Public Defender: Marx, Brian  
Cross-examination of the witness  
09:59:50 - State Attorney: White, Jeff  
Re-direct of the witness  
10:00:53 - State Attorney: White, Jeff  
10:01:06 - Judge: Bail, Deborah A.  
Excuses the witness  
10:01:12 - State Attorney: White, Jeff  
Calls Shelly Thompson, sworn, direct examination  
10:11:48 - Public Defender: Marx, Brian  
Cross-examination of the witness  
10:20:31 - State Attorney: White, Jeff  
Re-direct of the witness  
10:21:07 - Judge: Bail, Deborah A.  
Excuses the witness  
10:22:25 - State Attorney: White, Jeff  
Calls Joel Hoffman, sworn, direct examination  
10:23:20 - Public Defender: Marx, Brian  
Cross-examination of the witness  
10:40:31 - State Attorney: White, Jeff  
No re-direct  
10:41:26 - Judge: Bail, Deborah A.  
Excuses the witness  
10:41:30 - Judge: Bail, Deborah A.  
Court recesses, admonishes the jury  
10:43:23 - Operator  
Stop recording: (On Recess)  
11:04:48 - Operator  
Recording:  
11:04:48 - Record  
Fair, Lee  
11:05:00 - Judge: Bail, Deborah A.  
Court resumes, the jury is present  
11:05:08 - State Attorney: White, Jeff  
Calls Laura Suydam, sworn, direct examination  
11:15:49 - Public Defender: Marx, Brian



Cross-examination of the witness  
11:23:32 - State Attorney: White, Jeff  
Re-direct of the witness  
11:23:43 - Judge: Bail, Deborah A.  
Excuses the witness  
11:25:20 - Judge: Bail, Deborah A.  
Court recesses, admonishes the jury  
11:26:22 - Operator  
Stop recording: (On Recess)  
13:27:17 - Operator  
Recording:  
13:27:17 - Record  
Fair, Lee  
13:27:29 - Judge: Bail, Deborah A.  
Court resumes, the jury is present  
13:27:50 - State Attorney: White, Jeff  
Calls Dr. Bruce Morrison, sworn, direct examination  
13:37:18 - Public Defender: Marx, Brian  
Cross-examination of the witness  
13:39:10 - Judge: Bail, Deborah A.  
Excuses the witness  
13:39:15 - State Attorney: White, Jeff  
The State rests  
13:39:26 - Judge: Bail, Deborah A.  
The jury is excused for a few minutes  
13:40:18 - Public Defender: Marx, Brian  
Calls Richard Laine, sworn, direct examination  
13:45:48 - Judge: Bail, Deborah A.  
Witness has no relevant testimony  
13:46:13 - Public Defender: Marx, Brian  
Would like to impeach the witness  
13:46:22 - Judge: Bail, Deborah A.  
No proper foundation  
13:46:48 - Judge: Bail, Deborah A.  
Will not permit witness testimony  
13:47:10 - Judge: Bail, Deborah A.  
Will hear offer of proof on the other witnesses  
13:49:48 - Public Defender: Marx, Brian  
Calls Larson Firth, sworn, direct examination  
13:55:34 - State Attorney: White, Jeff  
Cross-examination of the witness  
13:56:29 - Judge: Bail, Deborah A.  
The Court inquires

13:57:12 - Judge: Bail, Deborah A.  
Excuses the witness

13:57:45 - Judge: Bail, Deborah A.  
Will not allow witness to testify

14:00:47 - Public Defender: Marx, Brian  
Calls Nina Lucas, sworn, direct examination

14:02:41 - State Attorney: White, Jeff  
Cross-examination of the witness

14:03:49 - Judge: Bail, Deborah A.  
Excuses the witness

14:03:59 - Judge: Bail, Deborah A.  
Will not allow witness to testify

14:05:51 - Public Defender: Marx, Brian  
Calls Lynard Rood, sworn, direct examination

14:10:46 - Judge: Bail, Deborah A.  
Court inquires

14:11:14 - State Attorney: White, Jeff  
Cross-examination of the witness

14:11:40 - Public Defender: Marx, Brian  
Re-direct of the witness

14:12:27 - Judge: Bail, Deborah A.  
Excuses the witness

14:12:32 - Judge: Bail, Deborah A.  
Will not allow the witness to testify

14:13:49 - Public Defender: Marx, Brian  
Calls Norman Ortiz-Perez, sworn, direct examination

14:19:36 - Judge: Bail, Deborah A.  
Court inquires

14:20:36 - State Attorney: White, Jeff  
Cross-examination of the witness

14:25:02 - Public Defender: Marx, Brian  
Re-direct of the witness

14:25:08 - Judge: Bail, Deborah A.  
Excuses the witness

14:25:13 - Judge: Bail, Deborah A.  
Will not allow the witness to testify

14:27:55 - Judge: Bail, Deborah A.  
The jury is now present

14:30:08 - Judge: Bail, Deborah A.  
Court excuses and admonishes the jury

14:31:22 - Public Defender: Marx, Brian  
Calls Tommy Basco, sworn, direct examination

14:35:22 - Judge: Bail, Deborah A.

Excuses the witness

14:35:31 - Judge: Bail, Deborah A.

Will not allow the witness to testify

14:36:40 - Judge: Bail, Deborah A.

Court recesses

14:37:22 - Operator

Stop recording: (On Recess)

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Case ID: 0007

Case number: CRFE10-20120

Plaintiff:

Plaintiff Attorney:

Defendant: Fair, Lee

Previous audio and annotations can be found in case: 0001

Co-Defendant(s):

Pers. Attorney:

State Attorney: White, Jeff

Public Defender: Marx, Brian

15:54:38 - Operator

Recording:

15:54:38 - Recall

Fair, Lee

15:54:49 - Judge: Bail, Deborah A.

Court resumes

15:56:36 - Judge: Bail, Deborah A.

The jury is not present

15:56:51 - Public Defender: Marx, Brian

Moves for a mis-trial

15:57:00 - Public Defender: Marx, Brian

Defendant was seen by the jury in custody

15:57:18 - Judge: Bail, Deborah A.

Denies the Motion for Mis-trial

15:58:09 - Judge: Bail, Deborah A.

The jury is now present

15:58:18 - Public Defender: Marx, Brian

Calls Shawn Hammack, sworn, direct examination

16:03:29 - State Attorney: White, Jeff

Objection - speculation

16:03:36 - Judge: Bail, Deborah A.  
Objection is overruled

16:04:27 - State Attorney: White, Jeff  
Cross-examination of the witness

16:05:39 - Public Defender: Marx, Brian  
Objection

16:05:42 - Judge: Bail, Deborah A.  
Objection is overruled

16:05:55 - Judge: Bail, Deborah A.  
Excuses the witness

16:06:02 - Public Defender: Marx, Brian  
Calls Layton Johansen, sworn, direct examination

16:11:40 - State Attorney: White, Jeff  
Objection - hearsay

16:11:50 - Judge: Bail, Deborah A.  
Objection is sustained

16:12:11 - State Attorney: White, Jeff  
Cross-examination of the witness

16:12:24 - Judge: Bail, Deborah A.  
Excuses the witness

16:12:32 - Public Defender: Marx, Brian  
The defense rests

16:12:48 - Judge: Bail, Deborah A.  
Court will excuse the jury for the night, admonishes the jury

16:15:14 - State Attorney: White, Jeff  
Advises he submitted a stipulation regarding a witness

16:15:39 - Judge: Bail, Deborah A.  
Will take up the stipulation and jury instructions tomorrow morning at 9 am

16:16:23 - Judge: Bail, Deborah A.  
Court recesses for the night

16:17:44 - Operator  
Stop recording: (On Recess)

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NO. \_\_\_\_\_  
A.M. \_\_\_\_\_ FILED P.M. 1:00

AUG 10 2011

CHRISTOPHER D. RICH, Clerk  
By TARA THERRIEN  
DEPUTY

**GREG H. BOWER**

Ada County Prosecuting Attorney  
200 W. Front Street, Room 3191  
Boise, Idaho 83702  
Phone: 287-7700  
Fax: 287-7709

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

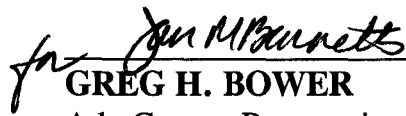
STATE OF IDAHO,	)	
	)	
Plaintiff,	)	Case No. CRFE2010-0020120
	)	
vs.	)	AMENDED
	)	INFORMATION
LEE ODELL FAIR,	)	
	)	Defendant's DOB [REDACTED]
Defendant.	)	Defendant's SSN: [REDACTED]
	)	

**GREG H. BOWER**, Prosecuting Attorney, in and for the County of Ada, State of Idaho, who in the name and by the authority of the State, prosecutes in its behalf, comes now into District Court of the County of Ada, and states that LEE ODELL FAIR is accused by this Amended Information of the crime of Aggravated Battery, FELONY, I.C. §18-903(a), 907 (a) which crime was committed as follows:

That the Defendant, LEE ODELL FAIR, on or about the 16th day of October, 2010, in the County of Ada, State of Idaho, did willfully and unlawfully use force and/or violence upon the person of Gerald Owen Blakely causing great bodily harm, to-

wit: by punching Gerald Blakely in the face and causing tooth subluxation and/or a fracture of the alveolar bone and/or a lip laceration.

All of which is contrary to the form, force and effect of the statute in such case and against the peace and dignity of the State of Idaho.

  
\_\_\_\_\_  
**GREG H. BOWER**  
Ada County Prosecuting Attorney

Session: Bail081111  
Session Date: 2011/08/11  
Judge: Bail, Deborah A.  
Reporter: Gambee, Susan

Division: DC  
Session Time: 08:47

Courtroom: CR510

Clerk(s):  
Therrien, Tara

State Attorney(s):  
White, Jeff

Public Defender(s):  
Marx, Brian

Prob. Officer(s):

Court interpreter(s):

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Case ID: 0001

Case number: CRFE10-20120  
Plaintiff:  
Plaintiff Attorney:  
Defendant: Fair, Lee  
Co-Defendant(s):  
Pers. Attorney:  
State Attorney: White, Jeff  
Public Defender: Marx, Brian

2011/08/11

09:08:23 - Operator

Recording:

09:08:23 - New case

Fair, Lee

09:08:27 - Judge: Bail, Deborah A.

Calls case, the jury is not present

09:08:34 - Judge: Bail, Deborah A.

Will discuss jury instructions

09:08:47 - State Attorney: White, Jeff  
Does not like the simple battery instruction

09:10:25 - Judge: Bail, Deborah A.  
Will change battery instruction

09:11:10 - State Attorney: White, Jeff  
Would also like to change the aggravated battery instruction

09:11:35 - Judge: Bail, Deborah A.  
Will change both instructions

09:12:09 - Public Defender: Marx, Brian  
Would like to change instruction #6

09:12:44 - Judge: Bail, Deborah A.  
It is instruction #5 not 6

09:12:52 - Judge: Bail, Deborah A.  
Will not make change to that instruction

09:13:22 - Judge: Bail, Deborah A.  
Will make changes and copies will be given to both sides

09:13:37 - Public Defender: Marx, Brian  
Mr. Fair will not testify

09:13:46 - Judge: Bail, Deborah A.  
Questions the defendant about his rights not to testify

09:15:56 - Operator  
Stop recording: (On Recess)

09:35:15 - Operator  
Recording:

09:35:15 - Record  
Fair, Lee

09:36:16 - Judge: Bail, Deborah A.  
Court resumes, the jury is present

09:36:27 - Judge: Bail, Deborah A.  
Both sides have stipulated to the testimony of a witness

09:36:45 - Public Defender: Marx, Brian  
Reads the stipulation

09:37:58 - State Attorney: White, Jeff  
Agrees with the stipulation

09:38:04 - Judge: Bail, Deborah A.  
Reads the jury instructions to the jury

09:48:12 - State Attorney: White, Jeff  
Makes closing arguments

09:59:12 - Public Defender: Marx, Brian  
Objection - misrepresentation of testimony

09:59:27 - Judge: Bail, Deborah A.  
Objection is overruled

10:12:03 - Public Defender: Marx, Brian



Makes closing arguments  
10:25:14 - State Attorney: White, Jeff  
Makes final argument  
10:30:05 - Judge: Bail, Deborah A.  
The Clerk swears in the bailiff  
10:37:08 - Judge: Bail, Deborah A.  
Draws an alternate juror  
10:37:35 - Judge: Bail, Deborah A.  
The jury goes out to deliberate  
10:37:43 - Judge: Bail, Deborah A.  
Court recesses  
10:37:59 - Operator  
Stop recording: (On Recess)  
16:10:04 - Operator  
Recording:  
16:10:04 - Record  
Fair, Lee  
16:10:08 - Judge: Bail, Deborah A.  
Court resumes, the jury is present with a verdict  
16:10:23 - Judge: Bail, Deborah A.  
The Court reads the verdict  
16:10:49 - Judge: Bail, Deborah A.  
The defendant is found guilty of Aggravated Battery  
16:11:37 - Judge: Bail, Deborah A.  
The jury will not be polled  
16:11:52 - Judge: Bail, Deborah A.  
The Court reads the Information Part II  
16:13:27 - Judge: Bail, Deborah A.  
Court recesses for a few minutes  
16:13:55 - Operator  
Stop recording: (On Recess)  
16:19:14 - Operator  
Recording:  
16:19:14 - Record  
Fair, Lee  
16:19:17 - Judge: Bail, Deborah A.  
Court resumes, the jury is present  
16:19:42 - Public Defender: Marx, Brian  
16:21:17 - State Attorney: White, Jeff  
Calls Glenna Traylor, sworn, direct examination  
16:22:31 - State Attorney: White, Jeff  
Exhibit # 1 is marked, and identified  
16:22:45 - State Attorney: White, Jeff

## Moves to admit Exhibit #1

16:23:05 - Public Defender: Marx, Brian  
Objection

16:23:16 - Judge: Bail, Deborah A.  
Exhibit # 1 is admitted

16:23:22 - Public Defender: Marx, Brian  
Cross-examination of the witness

16:24:19 - State Attorney: White, Jeff  
Makes closing argument

16:25:23 - Public Defender: Marx, Brian  
Makes closing argument

16:25:31 - Judge: Bail, Deborah A.  
Reads the jury instructions on the Information Part II

16:26:05 - Judge: Bail, Deborah A.  
The jury is sent out to deliberate

16:26:20 - Judge: Bail, Deborah A.  
Court recesses

16:26:39 - Operator  
Court resumes, the jury is present with a verdict

16:53:15 - Operator  
Recording:

16:53:15 - Record  
Fair, Lee

16:53:16 - Judge: Bail, Deborah A.  
Court resumes, the jury is present with a verdict

16:53:40 - Judge: Bail, Deborah A.  
The Court reads the verdict

16:54:15 - Judge: Bail, Deborah A.  
Both questions are answered yes

16:54:34 - Judge: Bail, Deborah A.  
The jury will not be polled

16:55:23 - Judge: Bail, Deborah A.  
Excuses the jury

16:57:31 - Judge: Bail, Deborah A.  
Court sets sentencing date for October 3, 2011 @ 3:00 pm

16:58:09 - Judge: Bail, Deborah A.  
Court recesses

16:58:15 - Operator  
Stop recording:

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NO. \_\_\_\_\_  
A.M. \_\_\_\_\_ FILED P.M. 4:35

**AUG 11 2011**

**CHRISTOPHER D. RICH, Clerk**  
By **TARA THERRIEN**  
DEPUTY

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF**

**THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

**THE STATE OF IDAHO,**

**Plaintiff,**

**vs.**

**Case No. CRFE10-0020120**

**LEE ODELL FAIR,**

**Defendant.**

**JURY INSTRUCTIONS**

**THE HONORABLE DEBORAH A. BAIL**

**DISTRICT JUDGE**

**PRESIDING**

**INSTRUCTION NO. 1**

A defendant in a criminal action is presumed to be innocent. This presumption places upon the state the burden of proving the defendant guilty beyond a reasonable doubt. Thus, a defendant, although accused, begins the trial with a clean slate with no evidence against the defendant. If, after considering all the evidence and my instructions on the law, you have a reasonable doubt as to the defendant's guilt, you must return a verdict of not guilty.

A reasonable doubt is not a mere possible or imaginary doubt. It is a doubt based on reason and common sense. It may arise from a careful and impartial consideration of all the evidence, or from lack of evidence. If after considering all the evidence you have a reasonable doubt about the defendant's guilt, you must find the defendant not guilty.

You have now heard all the evidence in the case. My duty is to instruct you as to the law. It is your duty to determine if the state has proven the charge against the defendant beyond a reasonable doubt. You must follow all the rules as I explain them to you in these instructions. You may not follow some and ignore others. Even if you disagree or don't understand the reasons for some of the rules, you are bound to follow them. If anyone states a rule of law different from any I tell you, it is my instruction that you must follow.

**INSTRUCTION NO. 2**

It is a constitutional right of a defendant in a criminal trial that he may not be compelled to testify. Thus, the decision as to whether he should testify is left to the defendant, acting with the advice and assistance of his attorney. You must not draw any inference of guilt from the fact that he does not testify, nor should this fact be discussed by you or enter into your deliberations in any way.

**INSTRUCTION NO. 3**

The original instructions and the exhibits will be with you in the jury room. They are part of the official court record. For this reason please do not alter them or mark on them in any way.

INSTRUCTION NO. 4

As members of the jury it is your duty to decide what the facts are and to apply those facts to the law that I have given you. You are to decide the facts from all the evidence presented in the case.

The evidence you are to consider consists of:

1. sworn testimony of witnesses;
2. exhibits which have been admitted into evidence; and

Certain things you have heard or seen are not evidence, including:

1. arguments and statements by lawyers. The lawyers are not witnesses. What they say in their opening statements, closing arguments and at other times is intended to help you interpret the evidence, but is not evidence. If the facts as you remember them differ from the way the lawyers have stated them, follow your memory;
2. testimony that has been excluded or stricken, or which you have been instructed to disregard;
3. anything you may have seen or heard when the court was not in session.

## INSTRUCTION NO. 5

The key part of your job as jurors is to decide how credible or believable each witness was. This is your job, not mine. It is up to you to decide if a witness's testimony was believable, and how much weight you think it deserves. You are free to believe everything that a witness said, or only part of it, or none of it at all. But you should act reasonably and carefully in making these decisions.

As you weigh the testimony, you can ask yourselves questions:

- (A) Was the witness able to clearly see or hear the events. Sometimes even an honest witness may not have been able to see or hear what was happening, and may make a mistake.
  - (B) How good was the witness's memory?
  - (C) Was there anything else that may have interfered with the witness's ability to perceive or remember the events?
  - (D) How did the witness act while testifying? Did the witness appear honest or not?
  - (E) Did the witness have any relationship to the state or the defendant, or anything to gain or lose from the case, that might influence the witness's testimony?
- Ask yourself if the witness had any bias, or prejudice, or reason for testifying that might cause the witness to lie or to slant the testimony in favor of one side or the other.



(F) How believable was the witness's testimony was in light of all the other evidence? Was the witness's testimony supported or contradicted by other evidence that you found believable? If you believe that a witness's testimony was contradicted by other evidence, remember that people sometimes forget things, and that even two honest people who witness the same event may not describe it exactly the same way.

These are only some of the things that you may consider in deciding how believable each witness was. You may also consider other things that you think shed some light on the witness's believability. Use your common sense and your everyday experience in dealing with other people. And then decide what testimony you believe, and how much weight you think it deserves.

INSTRUCTION NO. 6

In order for the defendant to be guilty of Aggravated Battery, the state must prove each of the following:

1. On or about October 16, 2010,
2. in the state of Idaho
3. the defendant Lee Odell Fair committed a battery upon Gerald Blakely,
4. by punching Gerald Blakely in the face, and
5. when doing so the defendant caused great bodily harm.

If any of the above has not been proven beyond a reasonable doubt, then you must find the defendant not guilty. If each of the above has been proven beyond a reasonable doubt, you must find the defendant guilty.

INSTRUCTION NO. 7

A "battery" is committed when a person:

- (1) willfully and unlawfully uses force or violence upon the person of another; or
- (2) actually, intentionally and unlawfully touches or strikes another person against the will of the other; or
- (3) unlawfully and intentionally causes bodily harm to an individual.

**INSTRUCTION NO. 8**

If your unanimous verdict is that the defendant is not guilty of Aggravated Battery, you must find him not guilty of that charge. In that event, you must next consider the included offense of Battery. You will not consider the lesser included offense unless you have first found the defendant not guilty of Aggravated Battery.

**INSTRUCTION NO. 9**

In order for the defendant to be guilty of Battery, the state must prove each of the following:

1. On or about October 16, 2010,
2. in the state of Idaho
3. the defendant Lee Odell Fair committed a battery upon Gerald Blakely,
4. by punching Gerald Blakely.

If any of the above has not been proven beyond a reasonable doubt, you must find the defendant not guilty. If each of the above has been proven beyond a reasonable doubt, then you must find the defendant guilty.

**INSTRUCTION NO. 10**

Do not concern yourself with the subject of penalty or punishment. That subject must not in any way affect your verdict. If you find the defendant guilty, it will be my duty to determine the appropriate penalty or punishment.

## INSTRUCTION NO. //

I have outlined for you the rules of law applicable to this case and have told you of some of the matters which you may consider in weighing the evidence to determine the facts. In a few minutes counsel will present their closing remarks to you, and then you will retire to the jury room for your deliberations.

The attitude and conduct of jurors at the beginning of your deliberations are important. It is rarely productive at the outset for you to make an emphatic expression of your opinion on the case or to state how you intend to vote. When you do that at the beginning, your sense of pride may be aroused, and you may hesitate to change your position even if shown that it is wrong. Remember that you are not partisans or advocates, but are judges. For you, as for me, there can be no triumph except in the ascertainment and declaration of the truth.

As jurors you have a duty to consult with one another and to deliberate before making your individual decisions. You may fully and fairly discuss among yourselves all of the evidence you have seen and heard in this courtroom about this case, together with the law that relates to this case as contained in these instructions.

During your deliberations, you each have a right to re-examine your own views and change your opinion. You should only do so if you are convinced by fair and honest discussion that your original opinion was incorrect based upon the evidence the jury saw and heard during the trial and the law as given you in these instructions.

Consult with one another. Consider each other's views, and deliberate with the objective of reaching an agreement, if you can do so without disturbing your individual

judgment. Each of you must decide this case for yourself; but you should do so only after a discussion and consideration of the case with your fellow jurors.



INSTRUCTION NO. 12

If it becomes necessary during your deliberations to communicate with me, you may send a note signed by one or more of you to the bailiff. You should not try to communicate with me by any means other than such a note.

During your deliberations, you are never to reveal to anyone how the jury stands on any of the questions before you, numerically or otherwise, unless requested to do so by me.

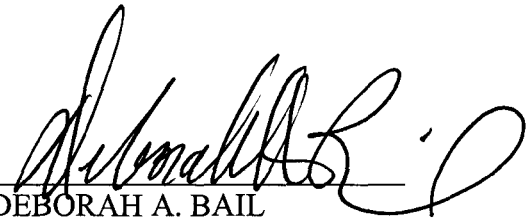
INSTRUCTION NO. 13

Upon retiring to the jury room, select one of you as a foreperson, who will preside over your deliberations. It is that person's duty to see that discussion is orderly; that the issues submitted for your decision are fully and fairly discussed; and that every juror has a chance to express himself or herself upon each question. Nothing is more important than jurors approaching deliberations in a careful, respectful way. Listen to each other. Share your views with each other. You and you alone are the judges of the facts.

In this case, your verdict must be unanimous. When you all arrive at a verdict, the foreperson will sign it and you will return it into open court.

Your verdict in this case cannot be arrived at by chance, by lot, or by compromise. A verdict form suitable to any conclusion you may reach is submitted to you with these instructions.

DATED This 11<sup>th</sup> day of August, 2011.

  
DEBORAH A. BAIL  
District Judge

NO. \_\_\_\_\_  
A.M. \_\_\_\_\_ P.M. 4:35

AUG 11 2011

CHRISTOPHER D. RICH, Clerk  
By TARA THERRIEN  
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,

Plaintiff,

vs.

LEE ODELL FAIR,

Defendant.

Case No. CRFE10-0020120

VERDICT

As to the offense of AGGRAVATED BATTERY, we, the jury, find the defendant, LEE  
ODELL FAIR:

GUILTY 12 NOT GUILTY 0

8/11/11  
DATE

*Christopher D. Rich*  
PRESIDING JUROR

NO. \_\_\_\_\_  
A.M. \_\_\_\_\_ P.M. 5:05

**AUG 11 2011**

CHRISTOPHER D. RICH, Clerk  
By TARA THERRIEN  
DEPUTY

Plaintiff,

**VS.**

Defendant.

Case No. CRFE10-0020120

THE HONORABLE DEBORAH A. BAIL  
DISTRICT JUDGE  
PRESIDING

**INSTRUCTION NO. 1**

Having found the defendant guilty of Aggravated Battery, you must next consider whether the defendant has been convicted on two prior occasions of felony offenses.

The state alleges the defendant has prior convictions as follows:

1. On or about the 25<sup>th</sup> day of August, 2009, the defendant was convicted of Possession of a Controlled Substance, and
2. On or about the 23<sup>rd</sup> day of July, 2003, the defendant was convicted of Grand Theft.

The existence of a prior conviction must be proved beyond a reasonable doubt and your decision must be unanimous.

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

NO. \_\_\_\_\_  
FILED \_\_\_\_\_  
A.M. \_\_\_\_\_ P.M. 5:05

AUG 11 2011

CHRISTOPHER D. RICH, Clerk  
By TARA THERRIEN  
DEPUTY

STATE OF IDAHO, )

Plaintiff, )

vs. )

LEE ODELL FAIR, )

Defendant. )

Case No. CRFE10-0020120

VERDICT

We, the Jury, duly impaneled and sworn to try the above entitled action,  
unanimously answer the questions submitted to us in this verdict as follows:

**QUESTION NO. 1:** Was the defendant, LEE ODELL FAIR on or about  
the 25<sup>th</sup> day of August, 2009, convicted of Possession of a Controlled Substance?

ANSWER: YES ✓ NO       

**QUESTION NO. 2:** Was the defendant, LEE ODELL FAIR on or about  
the 23<sup>rd</sup> day of July, 2003, convicted of Grand Theft?

ANSWER: YES ✓ NO       

8/11/11  
DATE

Gregory M. Leavitt  
PRESIDING JUROR

Time	Speaker	Note
<u>4:03:13 PM</u>		CRFE10-20120 State v Lee Fair Sentencing
<u>4:05:12 PM</u>		Defendant present in custody
<u>4:05:15 PM</u>	State Attorney	Jeff White
<u>4:05:17 PM</u>	Public Defender	Brian Marx
<u>4:06:00 PM</u>	Judge	Sentencing will continue without Sub abuse evaluation
<u>4:06:26 PM</u>	State Attorney	Calls Brian Holland, sworn, direct examination
<u>4:16:00 PM</u>	Public Defender	cross-examination of the witness
<u>4:16:05 PM</u>	State Attorney	Objection
<u>4:16:09 PM</u>	Judge	Objection is over-ruled
<u>4:18:24 PM</u>		victim makes statement
<u>4:30:09 PM</u>	State Attorney	Recommends Impose 10 + 20 = 30
<u>4:30:30 PM</u>	Public Defender	Recommends Impose 2 + 5 or 6 w/TC
<u>4:47:14 PM</u>	Judge	Imposes Sentence of 5 + 15 = 20 includes Persistent Violator charge
<u>5:05:30 PM</u>	Public Defender	would like a restitution hearing
<u>5:05:42 PM</u>	Judge	gives the state 30 days to give restitution amount and 30 days for the def to object to the amount
<u>5:06:13 PM</u>		Advises the defendant he/she has 42 days to appeal

OCT 04 2011

CHRISTOPHER D. RICH, Clerk  
By KELLE WEGENER  
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF

THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,

Plaintiff,

vs.

Case No. CRFE-2010-0020120

LEE ODELL FAIR,

JUDGMENT & COMMITMENT

Defendant.

SSN: [REDACTED]  
DOB: [REDACTED]

On the 3rd day of October, 2011, before the Honorable Deborah A. Bail, District Judge, personally appeared Jeff White, Deputy Prosecuting Attorney for the County of Ada, State of Idaho, and the defendant with his attorney, Brian Marx, for the pronouncement of judgment in this case.

The defendant has been convicted upon a finding of guilty by jury to the offense of AGGRAVATED BATTERY, FELONY, I.C. §18-903(a), 907(a), of the Amended Information, and of being a PERSISTENT VIOLATOR, FELONY, I.C. § 19-2514, of the Information Part II. The Court asked the defendant if he had any legal cause to show why judgment should not be pronounced against him. No objection was made by either the State or the Defense to the entry of judgment.

KW



1 IT IS ADJUDGED that the defendant is sentenced pursuant to Idaho Code §19-  
2 2513 to the custody of the Idaho State Board of Correction to be held and incarcerated by  
3 said Board in a suitable place for a period of time as follows:  
4

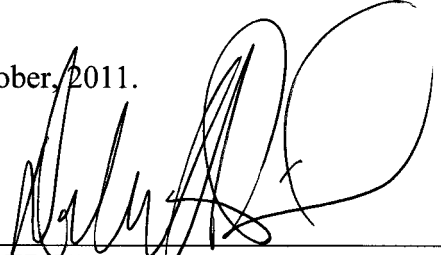
5 For a minimum fixed and determinate period of confinement of five (5) years;  
6 with the fixed minimum period followed by an indeterminate period of custody of up to  
7 fifteen (15) years, for a total term not to exceed twenty (20) years, enhanced by the  
8 PERSISTENT VIOLATOR charge contained in the Information Part II.  
9

10 Pursuant to Idaho Code §18-309, the defendant shall be given credit for the time  
11 already served in this case in the amount of two hundred fifty-seven (257) days.  
12

13 IT IS FURTHER ORDERED that the defendant is committed to the custody of  
14 the Sheriff of Ada County, Idaho, for delivery forthwith to the custody of the Idaho State  
15 Board of Correction at the Idaho State Penitentiary or other facility within the state  
16 designated by the State Board of Correction.  
17

18 IT IS FURTHER ORDERED that the Clerk deliver a certified copy of this  
19 Judgment and Commitment to the said Sheriff, which shall serve as the commitment of  
20 the defendant.  
21

22 Done in open court this 3rd day of October, 2011.  
23

24   
25 \_\_\_\_\_  
26 DEBORAH A. BAIL  
27 District Judge  
28  
29

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CERTIFICATE OF MAILING

I hereby certify that on this 4<sup>th</sup> day of October, 2011, I mailed (served) a true and correct copy of the within instrument to:

ADA COUNTY PROSECUTOR  
VIA – EMAIL

ADA COUNTY PUBLIC DEFENDER  
VIA – EMAIL

ADA COUNTY JAIL  
VIA – EMAIL

DEPARTMENT OF CORRECTION  
VIA – EMAIL

PROBATION & PAROLE-PSI DEPARTMENT  
VIA – EMAIL

CHRISTOPHER D. RICH  
Clerk of the District Court

By:   
Deputy Court Clerk

# Ada County Mugshot - Prosecutor's Office



User: PRWOODSL



Photo Taken: 2010-11-25 02:40:00

Name: FAIR, LEE ODELL

Case #: CR-FE-2010-0020120

LE Number: 627918

DOB: [REDACTED]

SSN: [REDACTED]

Height: 600

Weight: 160

Drivers License Number:

Drivers License State:

Sex: M Race: W Eye Color: GRN Hair Color: BRO Facial Hair:

Marks: CHEST

Scars:

Tattoos:

ADA COUNTY PUBLIC DEFENDER  
Attorneys for Defendant  
200 W. Front, Suite 1107  
Boise, Idaho 83702  
Telephone: (208) 287-7400

NO. \_\_\_\_\_  
A.M. \_\_\_\_\_ FILED \_\_\_\_\_  
P.M. \_\_\_\_\_ 330

OCT 06 2011

CHRISTOPHER D. RICH, Clerk  
By MAURA OLSON  
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO	)	
	)	
Plaintiff-Respondent,	)	
	)	
vs.	)	Criminal No. CR-FE-2010-0020120
	)	
	)	NOTICE OF APPEAL
LEE ODELL FAIR,	)	
	)	
Defendant-Appellant.	)	
	)	

TO: THE ABOVE NAMED RESPONDENT, GREG BOWER, ADA COUNTY  
PROSECUTOR, AND THE CLERK OF THE ABOVE ENTITLED COURT.

NOTICE IS HEREBY GIVEN THAT:

1. The above-named appellant appeals against the above-named respondent to the Idaho Supreme Court from the final Decision and Order entered in the above-entitled action on the 4th day of October, 2011, the Honorable Deborah A. Bail, District Judge presiding.

2. That the party has a right to appeal to the Idaho Supreme Court, and the judgments or orders described in paragraph 1 above are appealable orders under and pursuant to Idaho Appellate Rule (I.A.R.) 11(c) (1-10).

3. A preliminary statement of the issues on appeal, which the appellant then intends to assert in the appeal, provided any such list of issues on appeal shall not prevent the appellant from asserting other issues on appeal, is/are:

NOTICE OF APPEAL, Page 1

000207

BS

- (a) Did the district court err in disallowing alternative perpetrator/impeachment testimony?
- (b) Did the district court err in failing to grant the appellant's Motion for Mistrial.

4. There is a portion of the record that is sealed. That portion of the record that is sealed is the Pre-Sentence Investigation Report (PSI).

5. **Reporter's Transcript.** The appellant requests the preparation of the **entire reporter's standard transcript** as defined in I.A.R. 25(c). The appellant also requests the preparation of the additional portions of the reporter's transcript:

- (a) Jury Trial held: August 9, 2011  
(to include the voir dire, opening statements, closing arguments, jury instruction conferences, reading of the jury instructions, any hearings regarding questions from the jury during deliberations, return of the verdict, and any polling of the jurors)

Court Reporter: S. Gambee  
Estimated pages: 150; and

- (b) Jury Trial held: August 10, 2011  
Court reporter: S. Gambee  
Estimated pages: 250
- (c) Hearing held: August 11, 2011  
Court reporter: S. Gambee  
Estimated pages: 250
- (d) Sentencing Hearing held: October 3, 2011  
Court Reporter: S. Gambee  
Estimated pages: 50

6. **Clerk's Record.** The appellant requests the standard clerk's record pursuant to I.A.R. 28(b)(2). The appellant requests the following documents to be included in the clerk's record, in addition to those automatically included under I.A.R. 28(b)(2):

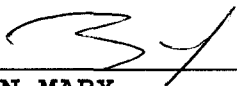
- (a) All items, including any affidavits, objections, responses, briefs or memorandums, offered in support of or in opposition to the Motion for Mistrial, filed or lodged, by the state, appellant or the court;

- (b) Any exhibits, including but not limited to letters or victim impact statements, addendums to the PSI or other items offered at sentencing hearing.

7. I certify:

- (a) That a copy of this Notice of Appeal has been served on the Court Reporter, S. Gambee;
- (b) That the appellant is exempt from paying the estimated fee for the preparation of the record because the appellant is indigent. (Idaho Code §§ 31-3220, 31-3220A, I.A.R. 24(e));
- (c) That there is no appellate filing fee since this is an appeal in a criminal case (Idaho Code §§ 31-3220, 31-3220A, I.A.R. 23(a)(8));
- (d) That Ada County will be responsible for paying for the reporter's transcript, as the client is indigent, I.C. §§ 31-3220, 31-3220A, I.A.R. 24(e); and
- (e) That service has been made upon all parties required to be served pursuant to I.A.R. 20.

**DATED** this 6th day of October, 2011.

  
\_\_\_\_\_  
**BRIAN MARX**  
Attorney for Defendant

CERTIFICATE OF MAILING

I HEREBY CERTIFY, That on the 6th day of October, 2011, I  
mailed true and correct copies of the foregoing, NOTICE OF APPEAL  
to:

KENNETH K. JORGENSEN  
DEPUTY ATTORNEY GENERAL  
CRIMINAL DIVISION  
P.O. BOX 83720  
BOISE, ID 83720-0010

S. GAMBEE, HONORABLE JUDGE BAIL'S COURT REPORTER

  
Stephanie Martinez

ADA COUNTY PUBLIC DEFENDER  
Attorneys for Defendant  
200 W. Front St., Ste. 1107  
Boise, Idaho 83702  
Telephone: (208) 287-7400

NO. \_\_\_\_\_  
A.M. \_\_\_\_\_ FILED P.M. 4:02

OCT 07 2011

CHRISTOPHER D. RICH, Clerk  
By TARA THERRIEN  
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO	)	
	)	
Plaintiff-Respondent,	)	Criminal No. CR-FE-2010-0020120
	)	
vs.	)	
	)	
LEE ODELL FAIR,	)	ORDER APPOINTING STATE
	)	APPELLATE PUBLIC DEFENDER
Defendant-Appellant.	)	ON DIRECT APPEAL
	)	

The above-named Defendant, LEE ODELL FAIR, being indigent and having heretofore been represented by the Ada County Public Defender's Office in the District Court, and said Defendant having elected to pursue a direct appeal in the above- entitled matter;

IT IS HEREBY ORDERED, AND THIS DOES ORDER, That the Idaho State Appellate Public Defender is appointed to represent the above named Defendant, LEE ODELL FAIR, in all matters pertaining to the direct appeal.

DATED This 7<sup>th</sup> day of October, 2011

*Deborah A. Bail*

DEBORAH A. BAIL  
District Judge

ORDER APPOINTING STATE APPELLATE  
PUBLIC DEFENDER ON DIRECT APPEAL

000211

TT 00' PAIPDISAPD



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NO. \_\_\_\_\_  
A.M. \_\_\_\_\_ P.M. 2

OCT 11 2011

CHRISTOPHER D. RICH, Clerk  
By ELAINE TONG  
DEPUTY

**GREG H. BOWER**

Ada County Prosecuting Attorney

**Jeffrey S. White**

Deputy Prosecuting Attorney

200 West Front Street, Room 3191

Boise, Idaho 83702

Telephone: (208) 287-7700

Fax: (208) 287-7709

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF

THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,

Plaintiff,

vs.

Lee Odell Fair,

Defendant.

Case No. CRFE20100020120

**MOTION FOR RESTITUTION  
AND JUDGMENT**

**COMES NOW**, Jeffrey S. White, Deputy Ada County Prosecuting Attorney, in and for the County of Ada, State of Idaho, and moves this court pursuant to Idaho Code §19-5304(2) for a restitution judgment in the amount of \$3,234.16, based upon the following information:

**MOTION FOR RESTITUTION AND JUDGMENT,**  
**(FAIR/CRFE20100020120), Page 1**

000212


mo

BLUE CROSS/BLUE SHIELD OF ILLINOIS	<u>\$2,247.88</u>
VICTIM'S COMPENSATION PROGRAM	<u>\$539.28</u>
BLAKLEY GERALD OWEN	<u>\$447.00</u>

**TOTAL:** **\$3,234.16**

DATED this 5 day of October, 2011.

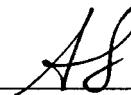
**GREG H. BOWER**  
Ada County Prosecuting Attorney

  
By: **Jeffrey S. White**  
Deputy Prosecuting Attorney

#### CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 11<sup>th</sup> day of October, 2011, I caused to be served a true and correct copy of the foregoing document to: Brian C. Marx, Attorney for Defendant, by the method indicated below:

☒ INTERDEPARTMENTAL MAIL  
☐ U.S. MAIL, Postage Prepaid  
☐ FACSIMILE TRANSMISSION  
☐ HAND-DELIVERY

  
\_\_\_\_\_

147  
PTC  
6/6  
9:30

NO. \_\_\_\_\_  
A.M. \_\_\_\_\_ FILED PM 12:12

OCT 14 2011

CHRISTOPHER D. RICH, Clerk  
By TARA THERRIEN  
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff,

vs.

Lee Odell Fair  
Defendant.

Case No. CR-FE-2010-20120

ORDER FOR EXONERATION OF  
BAIL BOND AFTER FORFEITURE

Bond Amt: \$ 50,000

Power No. 555066372-6

Date Forfeited: 3/15/11

Charge: Aggravated Battery

WHEREAS, OG's Bail Bonds, bail of the above-named defendant in this matter, has filed a motion with this court requesting an Order exonerating it as bail of said defendant; and

WHEREAS, said bail has filed with this court an executed Certificate of Surrender of Defendant certifying that said defendant was surrendered to the ADA County Sheriff; and

WHEREAS, it appears to this court that the undertaking posted by said bail in this matter has heretofore been forfeited;

NOW, THEREFORE, IT IS HEREBY ORDERED that OG's Bail Bonds, bail of the above-named defendant in this matter, be and hereby is, exonerated and discharged from all further liability of such bail.

JUDGE

Date

10/14/11

147

NO. \_\_\_\_\_  
A.M. 8:54 FILED P.M. \_\_\_\_\_

ADA COUNTY PUBLIC DEFENDER  
Attorneys for Defendant  
200 West Front Street, Suite 1107  
Boise, Idaho 83702  
Telephone: (208) 287-7400  
Facsimile: (208) 287-7419

OCT 17 2011

CHRISTOPHER D. RICH, Clerk  
By KARA HAWKES  
DEPUTY


IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF

THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,	)	
	)	Criminal No. CR-FE-2010-20120
Plaintiff,	)	
	)	DEFENDANT'S OBJECTION TO
vs.	)	RESTITUTION
	)	
LEE FAIR,	)	
	)	
Defendant.	)	
_____	)	

COMES NOW, the above-named Defendant, LEE FAIR, by and through his Attorney of Record, the Ada County Public Defender's Office, BRIAN MARX, handling attorney, and hereby objects to the restitution value requested by the State.

DATED, this 14 day of October, 2011.

  
\_\_\_\_\_  
BRIAN MARX  
Attorney for Defendant

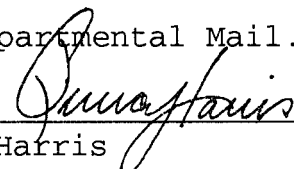
144

**CERTIFICATE OF MAILING**

I **HEREBY CERTIFY**, that on this 17<sup>th</sup> day of October, 2011, I mailed a true and correct copy of the foregoing to the:

Ada County Prosecutor

by depositing the same in the Interdepartmental Mail.

  
\_\_\_\_\_  
Quincy Harris

147

NO. \_\_\_\_\_  
A.M. \_\_\_\_\_ FILED P.M. 2/10

OCT 17 2011

CHRISTOPHER D. RICH, Clerk  
By MAURA OLSON  
DEPUTY

**GREG H. BOWER**

Ada County Prosecuting Attorney

**Jeffrey S. White**

Deputy Prosecuting Attorney

200 West Front Street, Room 3191

Boise, Idaho 83702

Telephone: (208) 287-7700

Fax: (208) 287-7709

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF

THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,

Plaintiff,

vs.

Lee Odell Fair,

Defendant.

Case No. CRFE20100020120

**AMENDED MOTION FOR  
RESTITUTION AND  
JUDGMENT**

**COMES NOW**, Jeffrey S. White, Deputy Ada County Prosecuting Attorney, in and for the County of Ada, State of Idaho, and moves this court pursuant to Idaho Code §19-5304(2) for a restitution judgment in the amount of \$3,412.96, based upon the following information:


MD

BLUE CROSS/BLUE SHIELD OF ILLINOIS	<u>\$2,247.88</u>
VICTIM'S COMPENSATION PROGRAM	<u>\$539.28</u>
BLAKLEY GERALD OWEN	<u>\$325.80</u>

**TOTAL:** **\$3,412.96**

DATED this 18 day of October, 2011.

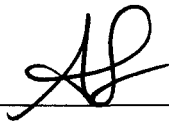
**GREG H. BOWER**  
Ada County Prosecuting Attorney

  
By: **Jeffrey S. White**  
Deputy Prosecuting Attorney

#### CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 19<sup>th</sup> day of October, 2011, I caused to be served a true and correct copy of the foregoing document to: Brian C. Marx, Attorney for Defendant, by the method indicated below:

☒ INTERDEPARTMENTAL MAIL  
☐ U.S. MAIL, Postage Prepaid  
☐ FACSIMILE TRANSMISSION  
☐ HAND-DELIVERY



# Restitution Account Case History

updated  
10/17/11

CRFE20100020120.0		Restitution Amt	\$3,412.96
Defendant		Restitution Ctl	\$0.00
FAIR LEE ODELL		Payment Amt	\$0.00
5130 RUSSETT			
BOISE, ID 83704-0000			
		Sentence Date 1/1/1	
		Close Date 1/1/1	
		Received	\$0.00
		Paid	\$0.00
		Trust	\$0.00
		Direct	\$0.00
		Joint & Several	\$0.00
Victim		Balance	\$3,412.96
BLAKLEY GERALD		Received	\$0.00
		Due	\$625.80
		Victim Amt	\$625.80
lost wages		Status	I INACTIVE
VICTIMS COMPENSATION PROGRAM		Received	\$0.00
PO BOX 83720		Due	\$539.28
BOISE, ID 83720-0000		Victim Amt	\$539.28
		Status	I INACTIVE
BLUE CROSS/BLUE SHIELD OF IL		Received	\$0.00
2329 S MACARTHUR BLVD		Due	\$2,247.88
SPRINGFIELD, IL 62704-0000		Victim Amt	\$2,247.88
Attn: CORPORATE REIMBURSEMENT			
Gerald Blakley		Status	I INACTIVE

## Transactions

Date	Amount	Description	Victim	Check #	Type
------	--------	-------------	--------	---------	------



147

NO. 9 FILED  
A.M. \_\_\_\_\_ P.M. \_\_\_\_\_

OCT 19 2011

Inmate name Lee Fair  
IDOC No. 70886  
Address ISCI Unit 15  
PO Box 14 83707

CHRISTOPHER D. RICH, Clerk  
By ELAINE TONG  
DEPUTY

Defendant

IN THE DISTRICT COURT OF THE Fourth JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff,

vs.

Lee Owen Fair,

Defendant.

Case No. CR-FE-2010-0020126

**MOTION FOR  
CORRECTION OR  
REDUCTION OF  
SENTENCE, ICR 35**

COMES NOW, Lee Fair, Defendant in the instant action, and pursuant  
to Idaho Criminal Rule 35, moves this Honorable Court for its Order:

☐ Correcting the Defendant's illegal sentence, or

☒ Reducing Defendant's sentence for the reasons stated on page two of this motion:

1. The Defendant was convicted of Aggravated Battery before the Honorable  
Judge Bail and sentenced to a term of imprisonment in  
the custody of the Idaho Department of Correction for:

☒ a unified term of 20 years including 5 years fixed followed by 15 years  
indeterminate,

☐ a fixed term of \_\_\_\_\_ years.

2. The Defendant has been incarcerated since 11-24-2010 and has served  
10 months (months/years) of the sentence.

MOTION FOR REDUCTION OR CORRECTION OF SENTENCE, ICR 35 - 1

Revised: 10/06/05

000220

3. The Defendant believes:

☒ The Court should reconsider its earlier sentence and reduce the same on the following grounds, or,

☐ The sentence is illegal and should be changed on the following grounds:

(State the reasons why you believe your sentence should be reduced. You may add extra pages if necessary. Any additional documentation must be attached hereto.)

Your Honor, as you know, my wife is pregnant. I have substantial support in the community where as before I had none. I have been diagnosed Bipolar/ADHD (thus far) and I was recommended for mental health court by Health & Welfare. I am a very paranoid individual, and I was rushed off of the transport bus upon arrival to ESCI, by prison officials claiming that my life was in danger. I have turned my life over to God. My only option is to conform to ~~prison~~ prison politics or seek protective custody, in which I would be limited to self help programs. Aside from officers testimony, I did make it clear that I "dropped out". I am wanting to do a T-C in a safe environment. I would like to work with Health & Welfare with medication and programming. I am worth more than this and I'm smarter than what I've demonstrated in my past. With the proper programming and medication I'm sure I can straiten my life out and become a productive husband, father and member of this community.

Defendant additionally submits the following documentation for consideration:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

WHEREFORE, the Defendant, Lee Fair, respectfully prays

this Honorable Court to reduce or correct the sentence as follows:

Reduce my 5 Fixed to 2 Fixed with a recommended  
Therapeutic Community. my 15 year tail stay as an  
incentive and reminder. or grant such  
other and further relief, as the Court deems appropriate.

Respectfully submitted this 19 day of October, 2011.

Lee Fair  
Defendant

**CERTIFICATE OF MAILING**

I HEREBY CERTIFY that on the 17 day of 10, 2011, I  
delivered to prison authorities for the purpose of mailing a true and correct copy of the MOTION  
FOR REDUCTION OF CORRECTION OF SENTENCE, ICR 35 via prison mail system for  
processing to the U.S. mail system to:

ADA County Prosecuting Attorney  
200 W Front Street  
\_\_\_\_\_

Lee Fair  
Defendant

141

NO. \_\_\_\_\_ FILED \_\_\_\_\_  
A.M. \_\_\_\_\_ P.M. 2:30

OCT 21 2011

CHRISTOPHER D. RICH, Clerk  
By ELAINE TONG  
DEPUTY

**GREG H. BOWER**  
Ada County Prosecuting Attorney

**Jeff White**  
Deputy Prosecuting Attorney  
200 West Front Street, Room 3191  
Boise, Idaho 83702  
Telephone: (208) 287-7700

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO, )  
)  
Plaintiff, )  
vs. )  
)  
LEE ODELL FAIR, )  
)  
Defendant. )  
)  
\_\_\_\_\_ )

**Case No. CR-FE-2010-0020120**

**STATE'S OBJECTION TO  
DEFENDANT'S I.C.R. 35  
MOTION**

**COMES NOW**, Jeff White, Deputy Prosecuting Attorney for Ada County, State of Idaho,  
and does hereby object to the defendant's Motion for Reduction of Sentence pursuant to I.C.R. 35  
for the following reasons:

- 1) The defendant's motion contains neither new information nor any information, which  
wasn't available at the time of sentencing and is therefore, nothing more than a request for  
indulgence.
- 2) The court had the relevant information available at the time the defendant was sentenced  
and these matters were open for argument by both parties. The sentence issued by the court  
at that time was appropriate and a reduction would, therefore, be inappropriate.

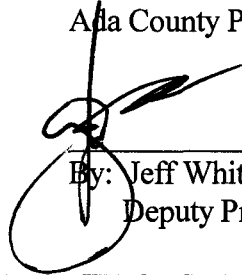
mo

As Defendant has failed to cite any legally sufficient reason to justify a reduction of his sentence pursuant to I.C.R. 35, the State therefore respectfully requests that the Court deny Defendant's motion without further hearing.

**RESPECTFULLY SUBMITTED** this 21 day of October, 2011.

**GREG H. BOWER**

Ada County Prosecuting Attorney

  
By: Jeff White  
Deputy Prosecuting Attorney

**CERTIFICATE OF MAILING**

**I HEREBY CERTIFY** that on this 21<sup>st</sup> day of October, 2011, I caused to be served, a true and correct copy of the foregoing State's Objection to Defendant's I.C.R. 35 Motion upon the individual(s) named below in the manner noted:

Name and address: **Lee Odell Fair #70886**  
**ISCI, Unit 15**  
**P.O. Box 14**  
**Boise, Idaho 83707**

☒ By depositing copies of the same in the Interdepartmental Mail.

  
Legal Assistant

FILED Wednesday, October 26, 2011 at 12:46 PM CHRISTOPHER D. RICH, CLERK OF THE COURT BY: <u>Dea Therrion</u> Deputy Clerk
--

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,

Plaintiff,

vs.

LEE ODELL FAIR,

Defendant.

Case No. CR-FE-2010-0020120

NOTICE OF HEARING

PLEASE TAKE NOTICE That the Honorable Deborah A. Bail, District Judge, has set  
this matter for a Restitution Hearing on **Monday, November 21, 2011 @ 9:30 am**  
at the Ada County Courthouse, 200 West Front Street, Boise, ID.

Christopher D. Rich  
Clerk of the Court  
Ada County, Idaho

By: Dea Therrion  
Deputy Clerk

FILED  
Wednesday, October 26, 2011 at 01:06 PM  
CHRISTOPHER D. RICH, CLERK OF THE COURT  
BY: *Tina Merriam*  
Deputy Clerk

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,  
Plaintiff,

vs.

LEE ODELL FAIR,  
Defendant.

Case No. CR-FE-2010-0020120

ORDER TO TRANSPORT

Inmate Number:  
DOB: [REDACTED]

It appearing that the above-named defendant is in the custody of the Idaho State Board of Correction, and that it is necessary that **LEE ODELL FAIR** be brought before this Court for:

Restitution Hearing.....Monday, November 21, 2011 @ 9:30 AM

It is THEREFORE ORDERED That the Ada County Sheriff bring the Defendant from the Penitentiary to the Court at said time and on said date;

IT IS FURTHER ORDERED That immediately following said Court appearance the Sheriff will return the said Defendant to the custody of the Idaho State Board of Correction until the court orders otherwise;

IT IS FURTHER ORDERED That the Idaho State Board of Correction release the said Defendant to the Ada County Sheriff for the purpose of the aforementioned appearance and await further order of the court.

IT IS FURTHER ORDERED That the Clerk of this Court serve a copy hereof upon the Idaho State Board of Correction forthwith and certify to the same.

Dated Wednesday, October 26, 2011.

*Deborah A. Bail*  
DEBORAH A. BAIL  
DISTRICT JUDGE

000226

147  
Hr.  
11/21  
9:30

NO. 1040  
A.M. FILED P.M. NOV 04 2011

ADA COUNTY PUBLIC DEFENDER  
Attorneys for Defendant  
200 West Front Street, Suite 1107  
Boise, Idaho 83702  
Telephone: (208) 287-7400  
Facsimile: (208) 287-7419

NOV 04 2011  
CHRISTOPHER D. RICH, Clerk  
By MAURA OLSON  
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,	)	
	)	Criminal No. CR-FE-10-20120
Plaintiff,	)	
	)	DEFENDANT'S MOTION TO ALLOW
vs.	)	TIME TO SUPPLEMENT I.C.R. 35
	)	MOTION
LEE FAIR,	)	
	)	
Defendant.	)	
_____	)	

COMES NOW, the above-named Defendant, LEE FAIR, by and through his Attorney of Record, the Ada County Public Defender's Office, BRIAN MARX, handling attorney, and hereby moves this Court to withhold ruling on Defendant's Pro-Se I.C.R. 35 Motion. Defendant filed an I.C.R. 35 Motion pro-se asking the Court to reduce his sentence. Defense Counsel requests this Court withhold ruling on this motion until Counsel has sufficient time to properly supplement the motion.

DATED, this 3 day of November, 2011.

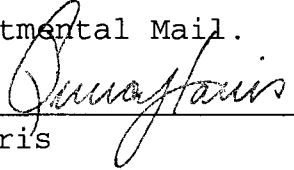
  
BRIAN MARX  
Attorney for Defendant

MO



**CERTIFICATE OF MAILING**

I **HEREBY CERTIFY**, that on this 4 day of November, 2011, I mailed a true and correct copy of the foregoing to the:  
Ada County Prosecutor  
by depositing the same in the Interdepartmental Mail.

  
\_\_\_\_\_  
Quincy Harris

FILED  
Monday, November 21, 2011 at 10:40 AM  
CHRISTOPHER D. RICH, CLERK OF THE COURT  
BY: *Jan Therrien*  
Deputy Clerk

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,  
Plaintiff,  
vs.  
LEE ODELL FAIR,  
Defendant.

Case No. CR-FE-2010-0020120

ORDER TO TRANSPORT

Inmate Number:  
DOB [REDACTED]

It appearing that the above-named defendant is in the custody of the Idaho State Board of Correction, and that it is necessary that **LEE ODELL FAIR** be brought before this Court for:

Restitution Hearing.....Monday, December 12, 2011 @ 9:30 AM

It is THEREFORE ORDERED That the Ada County Sheriff bring the Defendant from the Penitentiary to the Court at said time and on said date;

IT IS FURTHER ORDERED That immediately following said Court appearance the Sheriff will return the said Defendant to the custody of the Idaho State Board of Correction until the court orders otherwise;

IT IS FURTHER ORDERED That the Idaho State Board of Correction release the said Defendant to the Ada County Sheriff for the purpose of the aforementioned appearance and await further order of the court.

IT IS FURTHER ORDERED That the Clerk of this Court serve a copy hereof upon the Idaho State Board of Correction forthwith and certify to the same.

Dated Monday, November 21, 2011.

*Deborah A. Bail*

DEBORAH A. BAIL  
DISTRICT JUDGE

000229

147  
HS  
12/12  
930

NO. 10:15 FILED  
A.M. 10:15 P.M.

DEC 07 2011

CHRISTOPHER D. RICH, Clerk  
By AMY LANG  
DEPUTY

**GREG H. BOWER**  
Ada County Prosecuting Attorney

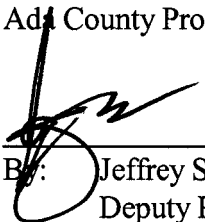
**Jeffrey S. White**  
Deputy Prosecuting Attorney  
200 West Front Street, Room 3191  
Boise, Idaho 83702  
Phone: 287-7700  
Fax: 287-7709

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,	)	
	)	
Plaintiff,	)	<b>Case No. CR-FE-2010-0020120</b>
vs.	)	
	)	
LEE ODELL FAIR,	)	<b>8TH ADDENDUM TO</b>
	)	<b>DISCOVERY RESPONSE</b>
	)	<b>TO COURT</b>
Defendant.	)	
_____	)	

**COMES NOW**, Jeffrey S. White, Deputy Prosecuting Attorney in and for Ada County,  
State of Idaho, and informs the Court that the State has submitted an 8<sup>th</sup> Addendum to Response to  
Discovery.

**RESPECTFULLY SUBMITTED** this 6 day of December, 2011.

**GREG H. BOWER**  
Ada County Prosecuting Attorney  
  
By: Jeffrey S. White  
Deputy Prosecuting Attorney



147  
Hr.  
2/13  
9:30

ADA COUNTY PUBLIC DEFENDER  
Attorneys for Defendant  
200 West Front Street, Suite 1107  
Boise, Idaho 83702  
Telephone: (208) 287-7400  
Facsimile: (208) 287-7409

NO. 1040  
A.M. FILED P.M.

DEC 16 2011  
CHRISTOPHER D. RICH, Clerk  
By MAURA OLSON  
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff

vs.

LEE ODELL FAIR,

Defendant.

Case No. CR-FE-2010-0020120

NOTICE OF HEARING

TO: THE STATE OF IDAHO, Plaintiff, and to JEFFREY S WHITE:

YOU, AND EACH OF YOU, are hereby notified that the defendant will call for a hearing on MOTION FOR NEW TRIAL, now on file in the above-entitled matter, on February 13, 2012, at the hour of 09:30 AM, in the courtroom of the above-entitled court, or as soon thereafter as counsel may be heard.

DATED, Friday, December 16, 2011.

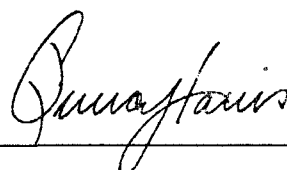
  
BRIAN C MARX  
Attorney for Defendant

CERTIFICATE OF MAILING

I HEREBY CERTIFY, that on Friday, December 16, 2011, I mailed a true and correct copy of the within instrument to:

JEFFREY S WHITE  
Counsel for the State of Idaho

by placing said same in the Interdepartmental Mail.



MO

NO. 1040  
A.M. FILED P.M.

DEC 16 2011

CHRISTOPHER D. RICH, Clerk  
By MAURA OLSON  
DEPUTY

ADA COUNTY PUBLIC DEFENDER  
Attorneys for Defendant  
200 West Front Street, Suite 1107  
Boise, Idaho 83702  
Telephone: (208) 287-7400  
Facsimile: (208) 287-7419

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF

THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,	)	
	)	Criminal No. CR-FE-10-20120
Plaintiff,	)	
	)	DEFENDANT'S MOTION FOR NEW
vs.	)	TRIAL
	)	
LEE FAIR,	)	
	)	
Defendant.	)	
_____	)	

COMES NOW, the above-named Defendant, LEE FAIR, by and through his Attorney of Record, the Ada County Public Defender's Office, BRIAN MARX, handling attorney, and hereby moves this Court for a new trial pursuant to Idaho Criminal Rule 34.

During the trial the defense called outside the presence of the jury several witnesses in an attempt to put on alternative perpetrator testimony. Upon hearing the testimony of the witnesses the Court excluded the witnesses from testifying to the jury. The Defense has received in a discovery response dated December 7, 2011 a letter that was intercepted from Richard Laine by the Idaho Department of Corrections. This

MD

letter refers to a friend of his who was involved in the gang SVC and has a Boise tattoo on his neck.

In this letter, Mr. Laine indicates he was present with this "friend" and another individual at bar when a fight broke out. He writes in the letter that the "friend" with the Boise tattoo ran to the car and left Mr. Laine and the other individual to fend for themselves in the fight. Mr. Laine writes that as a result of this fight, someone ended up in the hospital and that the friend with the Boise tattoo was picked out by witnesses due to the distinctive tattoos and charged with aggravated battery.

Mr. Laine concludes by stating that the "friend" with the Boise tattoo left Mr. Laine and the other individual to fend for themselves in the fight so Mr. Laine says that his "friend" with the Boise tattoo was on his own with the Court proceedings.

Mr. Fair has been at one time associated with that gang and has a Boise tattoo on his neck. One can reasonably conclude that Mr. Laine is referring to Mr. Fair in this letter. Mr. Laine testified to this Court that he was not at the scene of the crime that led to Mr. Fair's arrest and subsequent conviction. Mr. Laine gave the indication through his testimony that he had did not know anything related to the incident at hand. This letter indicates Mr. Laine was less than truthful when he testified and indeed had valuable knowledge of Mr.

Fair's innocence but decided instead to withhold that information because Mr. Fair left Mr. Laine and another individual to deal with the fight.

While some of the facts regarding the fight detailed in Mr. Laine's letter may differ from some other testimony at trial and witness statements, it cannot be disputed that he seems to indicate that Mr. Fair did not cause the injuries that led to the hospitalization and subsequent criminal charges. It seems plausible that now that the conviction has entered against Mr. Fair, Mr. Laine feels safe admitting to his responsibility in the matter, thinking that he would be safe from criminal prosecution himself. The Defendant asserts that had Mr. Laine testified to the information in the letter the alternative perpetrator testimony would have been allowed in or this Court would have allowed the testimony in to impeach Mr. Laine's credibility.

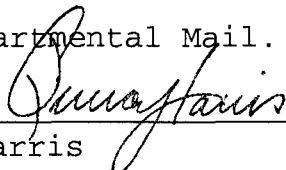
Defendant respectfully requests this Court set aside the guilty verdict in this case and set this matter for a new trial. Defendant has attached a copy of the letter to this motion for the Court's review.

DATED, this 16<sup>th</sup> day of December, 2011.

  
BRIAN MARX  
Attorney for Defendant

**CERTIFICATE OF MAILING**

I **HEREBY CERTIFY**, that on this 14 day of December, 2011, I mailed a true and correct copy of the foregoing to the:  
Jeffrey White, Ada County Prosecutor's Office  
by depositing the same in the Interdepartmental Mail.

  
\_\_\_\_\_  
Quincy Harris



2ALIXI,

TUESDAY, NOVEMBER 28, 2011

THANK YOU FOR WRITING BACK. I HOPE EVERYTHING IS GOING WELL FOR YOU GUYS. WHAT DID YOU DO FOR THANKSGIVING? WHAT ARE YOU DOING FOR CHRISTMAS? MORE THAN MAX AND I I'M ASSUMING! ☺

THAT'S WEIRD ABOUT THE PHONE CALLS... I'LL TRY AGAIN WHEN I CAN GET TO A PHONE. DOES ADAM SMITH STILL TRY TO CALL YOU? HE WAS RIGHT NEXT TO ME IN COUNTY AND TALKED ALL DAY ABOUT YOU GUYS AND HOW YOU QUIT ANSWERING HIS CALLS. I WAS LIKE, "TAKE A HINT!" IT MADE ME NOT WANT TO CALL BECAUSE YOU GUYS WOULD THINK I WAS HIM! I SAW HIM THE OTHER DAY. OH, WELL. MOVING ON...

ABOUT THE GANG CRAP, YEAH IT IS CRAP THAT I'M IN THE HOLE, BUT HERE'S WHY. ONE OF MY OLD FRIENDS, ME AND MY BROTHER ALL WENT TO A BAKI. MY FRIEND STARTED A FIGHT AND CALLED IT OUTSIDE. I WAS ALREADY OUTSIDE TAKING A PHONE CALL. I SAW MY FRIEND, FOLLOWED BY SEVEN OTHER DUDES FOLLOWED BY MY DIZUNK BROTHER. WELL MY FRIEND SAW THAT IT WAS SEVEN ON ONE AND STARTED TO WALK AWAY. THE WAY HE PICKED THE FIGHT WITH ~~HE~~ CAME UP BEHIND HIM SO MY BROTHER INTERVENED. THEN THEY STARTED TO JUMP MY BROTHER. SO I GOT INVOLVED. WELL, MY "FRIEND" RAN TO THE CAR AND LEFT ME AND MY BROTHER TO GET JUMPED FOR HIS FIGHT. SOMEONE ENDED UP IN THE HOSPITAL AS A RESULT OF MY "FRIENDS" DRAMA. WELL, MY "FRIEND" HAS SOME PIZETTY NOTICEABLE TATTOOS ON HIS NECK ("BOISE" FROM EAR TO EAR ON HIS NECK) SO HE WAS PICKED OUT BY WITNESSES FOR THE COPS. HE GOT CHARGED WITH AGGRAVATED BATTERY FOR THE FIGHT. WELL, HE'S IN A GANG CALLED SVC (SEVERELY VIOLENT CRIMINALS). HE WANTED ME

TO GO INTO COURT AND SAY THAT I WAS THE ONE THAT DID IT. I  
TOLD HIM, NO. HE LEFT ME AND MY BROTHER TO GET JUMPED WHILE  
HE RAN FROM A FIGHT THAT HE STARTED. ~~HE~~ HE LEFT US ON OUR  
OWN TO DEFEND HIM. SO I TOLD HIM HE'S ON HIS OWN. MY BROTHER  
TOLD ME LATER THAT MY "FRIEND" PINCHED THAT DUDE'S GIRLFRIEND'S  
BEHIND THEN PUSHED THE DUDE AND SWUNG ON HIM IN THE BAR. AND  
HE'S MAD AT ME? WELL, IT'S BEEN DRAMA FOR ME EVER SINCE. AND  
WHEN THEY TRIED TO JUMP ME, I BEAT UP BOTH THE DUDES THAT  
CAME AFTER ME. THAT WASN'T THE FIRST TIME THEY TRIED TO JUMP  
ME EITHER. SO THEY SAY THAT SINCE I BEAT THEM UP, IT'S JUST  
GOING TO GET WORSE FOR ME. I'M LIKE, "YOU WANT ME TO LAY DOWN,  
AND GET BEAT DOWN? YOU'RE CRAZY. THAT'S HOW PEOPLE GET HURT. IT OPENS  
THE DOOR TO GET WALKED ON." THEY SAY THEY'RE KEEPING ME IN HERE  
FOR MY OWN SAFETY. STUPID.

ME BEING IN THE HOLE FOR THIS DOESN'T MEAN I LOSE ALL MY  
PRIVILEGES. I CAN STILL BUY MY TV... ACTUALLY, NOW, WOULD BE THE  
BEST TIME. I HAVE NOTHING ELSE TO DO. AND ALL DAY I PACE, WORK  
IT OR STAKE AT THE WALL. IT'S PRETTY MONOTONOUS. SO, WHENEVER  
A GUYS CAN WOULD BE AWESOME! :) IT'S JUST GOTTA BE IN A  
CASHERS CHECKS OR MONEY ORDER MADE OUT TO "RICHARD LAINE #78330"  
AND UNDER "REASON" PUT "GIFT."

THANK YOU FOR THE PICTURE! HOW'S YAM'S INJURY? PRETTY  
SENSITIVE AREA TO BE SHOOTING... HIS DAUGHTER IS ADORABLE!

SO, HOW IS MAX COMING ALONG? IS HE STILL IN YELLOW?  
I HOPE HE'S KEEPING HIS MIND RIGHT. I PRAY HE BEATS

ALL OF HIS CHARGES AND GOES HOME. HE NEEDS TO STAY FOCUSED AND SOBER WHEN HE GETS OUT, THOUGH. DRUGS DESTROYED MY LIFE AND I HATE SEEING PEOPLE WITH GOOD HEARTS, LOVING FAMILIES, TONS OF POTENTIAL AND ENDLESS OPPORTUNITIES THROWING AWAY THEIR LIVES FOR DRUGS. IT SUCKS!

HERE'S A PICTURE OF MY SISTER AND I AT MY COUSIN CAROLYN'S WEDDING RECEPTION. THAT WAS SUMMER OF 2010. THAT WAS BEFORE I STARTED USING AGAIN. I HATE WHAT DRUGS HAVE DONE TO ME. I WAKE UP EVERYDAY IN DISBELIEF I CAN'T BELIEVE WHAT I GAVE UP FOR DRUGS. IT BLOWS ME AWAY!

WELL, I DON'T WANT TO BORE YOU. I'M GOING TO END THIS FOR NOW. I HOPE TO HEAR FROM YOU AGAIN SOON. TELL MAX I SAY "HI" AND TO KEEP ~~THE~~ HIS HEAD UP.

P.S.

-RICHIE

I DON'T EXPECT A "HAND OUT" FROM YOU GUYS SO I PROMISE I WILL WORK OFF ANYTHING AND EVERYTHING YOU GUYS DO FOR ME. JUST SO HAPPENS I'M EXCELLENT AT RAKING LEAVES, SHOVELING SNOW AND WASHING CARS! (U)

P.P.S.

ALSO, WHERE IS IT BEST TO WRITE YOU? UTR OR TARA ST?

FILED  
Thursday, December 22, 2011 at 12:49 PM  
CHRISTOPHER D. RICH, CLERK OF THE COURT  
BY: Chia Merriem  
Deputy Clerk

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,

Plaintiff,

vs.

LEE ODELL FAIR,

Defendant.

Case No. CR-FE-2010-0020120

ORDER TO TRANSPORT

Inmate Number:

DOB: [REDACTED]

It appearing that the above-named defendant is in the custody of the Idaho State Board of Correction, and that it is necessary that **LEE ODELL FAIR** be brought before this Court for:

Hearing Scheduled.....Monday, February 13, 2012 @ 9:30 AM

It is THEREFORE ORDERED That the Ada County Sheriff bring the Defendant from the Penitentiary to the Court at said time and on said date;

IT IS FURTHER ORDERED That immediately following said Court appearance the Sheriff will return the said Defendant to the custody of the Idaho State Board of Correction until the court orders otherwise;

IT IS FURTHER ORDERED That the Idaho State Board of Correction release the said Defendant to the Ada County Sheriff for the purpose of the aforementioned appearance and await further order of the court.

IT IS FURTHER ORDERED That the Clerk of this Court serve a copy hereof upon the Idaho State Board of Correction forthwith and certify to the same.

Dated Thursday, December 22, 2011.

Deborah A. Bail

DEBORAH A. BAIL  
DISTRICT JUDGE

TI CC: PA/PD/AJ/IDM

147  
HS  
2/13  
9:30

NO. \_\_\_\_\_  
A.M. \_\_\_\_\_ P.M. 3:45

**ADA COUNTY PUBLIC DEFENDER**  
**Attorneys for Defendant**

**BRIAN C. MARX, ISB #7694**  
**Deputy Public Defender**  
**200 West Front Street, Suite 1107**  
**Boise, Idaho 83702**  
**Telephone: (208) 287-7400**  
**Facsimile: (208) 287-7409**

**JAN 25 2012**

**CHRISTOPHER D. RICH, Clerk**  
**By AMY LANG**  
**DEPUTY**

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF**  
**THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

**STATE OF IDAHO,**

**Plaintiff,**

**vs.**

**LEE ODELL FAIR,**

**Defendant.**

**Case No. CR-FE-2010-0020120**

**DEFENDANT'S 8<sup>th</sup> DISCOVERY**  
**RESPONSE TO COURT**

**COMES NOW**, LEE ODELL FAIR, Defendant above-named, by and through counsel BRIAN C. MARX, Ada County Public Defender's office, and informs this Court that Defendant has complied with the State's request for discovery by serving upon JEFFREY S. WHITE, counsel for the state of Idaho, with Defendant's 8<sup>th</sup> Addendum to Discovery on the above-filed date.

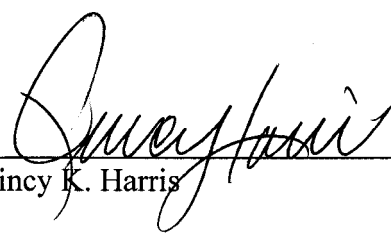
**DATED**, this 25<sup>th</sup> day of January 2012.

  
\_\_\_\_\_  
**BRIAN C. MARX**  
**Attorney for Defendant**

**CERTIFICATE OF MAILING**

**I HEREBY CERTIFY**, that on the 25 day of January 2012, I mailed (served) a true and correct copy of the within instrument to:

**JEFFREY S. WHITE**  
**Ada County Prosecutor's Office**  
**Interdepartmental Mail**

  
\_\_\_\_\_  
**Quincy K. Harris**

 **DEFENDANT'S 8<sup>th</sup> DISCOVERY RESPONSE TO COURT**

000240

147  
HS  
2/13  
930

ADA COUNTY PUBLIC DEFENDER  
Attorneys for Defendant  
200 West Front Street, Suite 1107  
Boise, Idaho 83702  
Telephone: (208) 287-7400  
Facsimile: (208) 287-7419

NO. \_\_\_\_\_  
A.M. \_\_\_\_\_ FILED P.M. 7:45

JAN 25 2012

CHRISTOPHER D. RICH, Clerk  
By AMY LANG  
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,	)	
	)	Criminal No. CR-FE-2010-20120
Plaintiff,	)	
	)	MOTION FOR RECONSIDERATION
vs.	)	OF SENTENCE
	)	
LEE FAIR,	)	
	)	
Defendant.	)	
_____	)	

COMES NOW, the above-named Defendant, LEE FAIR, by and through his Attorney of Record, the Ada County Public Defender's Office, BRIAN MARX, handling attorney, and hereby moves this Honorable Court, pursuant to Idaho Criminal Rule 35, for a reduction of its sentence imposed October 3, 2011. This case is currently pending a Motion for New Trial. Upon the results of the pending Motion the Defendant will supplement this motion with a Brief in Support if necessary.

DATED, this 24<sup>th</sup> day of January, 2012.

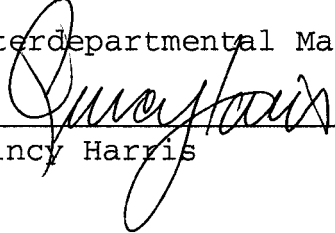
  
BRIAN MARX  
Attorney for Defendant

**CERTIFICATE OF MAILING**

I HEREBY CERTIFY, that on this 24 day of January, 2012, I mailed a true and correct copy of the foregoing to the:

**Ada County Prosecutor**

by depositing the same in the Interdepartmental Mail.

  
\_\_\_\_\_  
Quincy Harris

**JAN 25 2012**

CHRISTOPHER D. RICH, Clerk  
By AMY LANG  
DEPUTY

ADA COUNTY PUBLIC DEFENDER  
Attorneys for Defendant  
200 West Front Street, Suite 1107  
Boise, Idaho 83702  
Telephone: (208) 287-7400  
Facsimile: (208) 287-7419

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,	)	
	)	Criminal No. CR-FE-2010-20120
Plaintiff,	)	
	)	ADDENDUM TO DEFENDANT'S
vs.	)	MOTION FOR NEW TRIAL
	)	
LEE FAIR,	)	
	)	
Defendant.	)	
_____	)	

COMES NOW, the above-named Defendant, LEE FAIR, by and through his Attorney of Record, the Ada County Public Defender's Office, BRIAN MARX, handling attorney, and hereby files this Addendum to Defendant's Motion for New Trial. The Defense has received through the prison system a second letter believed to be attributed to Richard Laine in connection with the letter attached to Defendant's Motion for New Trial that was filed December 16, 2011.

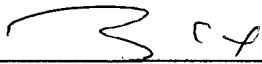
The Defense submitted this second letter (attached to this filing converted to two one sided pages) for Handwriting Analysis to George Throckmorton. Mr. Throckmorton has provided





the conclusion that this unsigned second letter is also written by Mr. Laine. Mr. Throckmorton's report and credentials are attached to this filing for the Court's review.

**DATED**, this 25<sup>th</sup> day of January, 2012.

  
\_\_\_\_\_  
**BRIAN MARX**  
**Attorney for Defendant**

**CERTIFICATE OF MAILING**

**I HEREBY CERTIFY**, that on this 25 day of January, 2012, I mailed a true and correct copy of the foregoing to the:

Ada County Prosecutor's Office

by depositing the same in the Interdepartmental Mail.

  
\_\_\_\_\_  
Quincy Harris

# *Independent Forensic Laboratories*

5189 South Espadrille Drive, Salt Lake City, Utah ~~84118-1274~~

*84129-1274*

George J. Throckmorton  
Forensic Document Examiner



Telephone  
(801) 232-6666

January 17, 2012

John Anzuoni  
Criminal Investigator  
Ada County Public Defender's Office  
200 W. Front St - Suite 1107  
Boise ID 83702

Dear Mr. Anzuoni,

RE: Handwriting Exam

This report pertains to my examination of the following documents as per your request.

Documents Examined:

- 1) **Original** one-page handprinted letter beginning with the words "These misconceptions . . ." and ending with the words "I'm no punk/bitch." It was written on both sides of white paper with green lines.
- 2) **Original** one-page handprinted letter beginning with the name "Bryan" and ending with the name "Lee Fair" It was written on both sides of yellow lined paper.
- 3) **Copy** of a three-page handprinted letter dated Tuesday, November 28, 2011 addressed to "Galixi," and signed "Richie."

---

You requested a forensic examination on the three documents to determine if any of them had been written by the same individual or not.

---

A forensic examination was conducted on the three documents previously listed to determine what identifiable characteristics were present. These characteristics were compared with each other to see if similarities or differences existed. A comprehensive examination, and evaluation of the writing resulted in the following professional opinion.



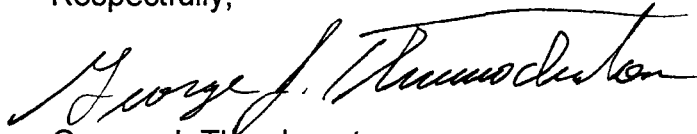
## RESULTS OF EXAMINATION

Documents #1 and #3 were identified (\*) as having been written by the same person. Document #2 was written by a different individual.

---

I hope the above information will be of value to you. If I may be of further assistance, please give me a call. I am returning the above described writing to you with this report.

Respectfully,

A handwritten signature in cursive script, reading "George J. Throckmorton".

George J. Throckmorton  
Forensic Document Examiner

GJT:ct  
enclosure

(\*) Refer to attached ABFDE Handwriting Opinions

## **ABFDE Standard Handwriting Opinions**

The "American Board of Forensic Document Examiners" (ABFDE) is a non-profit organization established in 1977 with a grant from the U.S. Dept. Of Justice to provide a program to recognize qualified forensic document examiners in government and private laboratories. It is the "only" recognized national certifying board accepted by the major professional organizations in North America including the International Association for Identification, the American Academy of Forensic Sciences, and all Federal, State, and City Forensic Laboratories in North America.

These "Opinions" were adopted at their annual meeting in February 1993 and are in common use in all accredited laboratories throughout the United States and Canada.

---

### **Identification:** (definite conclusion of identity)

**Highest degree of confidence, where the examiner has no reservations whatsoever. His/her opinion is based upon evidence contained in the handwriting that the known writer actually wrote the writing in question.**

### **Strong Probability:** (Highly probable or Very probable)

Evidence is very persuasive yet some critical feature or quality is missing so that an identification is not in order; however, the examiner is almost certain the questioned and known writing was written by the same individual.

### **Probable:**

Evidence contained in the hand writing points strongly to the belief that the questioned and known writing was written by the same individual but, some variation is unexplainably present in the writing.

### **Indications:** (evidence to suggest)

The body of the writing has several features which are of significance for handwriting comparison purposes, but those features may not be unique enough to make the writing totally different from other writings found in the general populace.

### **No/Conclusion:** (totally inconclusive)

This reflects a point of zero confidence. It is used when there is significantly limiting factors such as disguise in the questioned and/or known writing or a lack of comparable writing specimens. There may be several similarities, but also several differences, and the examiner does not have an opinion one way of the other.

### **Indications did Not:**

This carries the same weight as the "Indications" term used previous, but to the opposite extreme, and it is very weak opinion. The body of writing has few features which are significant for handwriting comparison purposes, but those features are in disagreement with the other writing examined.

### **Probably did not:**

The evidence points rather strongly against the questioned and known writings having been written by the same individual, but as in the "Probable" range above, the evidence is not quite up to the virtually certain range.

### **Strong Probability Did Not:**

This carries the same weight as Strong Probability on the identification side of the scale. There is a virtually certainty that the questioned and known writings were not written by the same individual.

### **Elimination:**

This like the "Definite" conclusion of identify is the highest degree of confidence expressed by the document examiner in handwriting comparisons. By using this expression, the examiner denotes no doubt in his opinion that the questioned and known writings were written by different individuals. The only time this opinion is really warranted is when the author of the questioned writing has actually been identified.

43

1

THESE MISCONCEPTIONS AND HALF TRUTHS ARE GETTING OLD. SO I FIGURED I MAY AS WELL TELL ALL OF YOU WHAT REALLY HAPPENED WITH EVERYTHING. I'LL START WITH THE LEE SITUATION. ME, HIM AND MY BROTHER ALL WENT TO A BAR. I ORDERED A BUCKET OF BEER AND WENT TO MY OWN TABLE AND STARTED TO WATCH MY BROTHER PLAY POOL. LEE WAS RUNNING AROUND ALL NIGHT, "I GOT THIS TOWN! I GOT IT TATTOOED ON MY NECK! IF YOU LOVE BOISE, BUY ME A DRINK!" JUST BEING HIMSELF. THEN HE BETS THIS DUDE \$20 THAT MY BROTHER WILL BEAT HIM AT POOL. HE TAKES THE BET AND MY BROTHER SMOKES HIM. THE WHOLE GAME LEE WAS TALKIN SHIT LIKE HE DOES \* AND AT THE END LEE SAYS, "PAY UP, SUCKA!" THE DUDE SAYS, "I AIN'T PAYIN YOU SHIT. BUNCH OF CHEATIN ASS PUNKS." AND THAT'S WHEN LEE CALLED HIM OUTSIDE. THE BOUNCER CAME OVER AND SO I GOT UP & BROKE IT UP AND TOLD THE BOUNCER IT WAS NOTHING, JUST A DISAGREEMENT. THEN MY PHONE RANG. IT WAS DONNY, WHOM LEE KIPPED OFF FOR 500<sup>00</sup>. SO I WENT OUTSIDE TO TAKE THE CALL. DONNY WANTED TO KNOW WHERE WE WERE SO HE COULD JAM UP LEE AND I TOLD HIM TO LEAVE IT ALONE AND WE'D HANDLE IT LATER. "WE'RE AT A BAR AND I DON'T WANT DRAMA." JUST THEN, LEE WALKS OUT OF THE BAR, FOLLOWED BY THE DUDE FROM THE POOL GAME, HIS GIRLFRIEND AND SIX HOMEBOYS, FOLLOWED BY MY DRUNK BROTHER. I TOLD DONNY I HAD TO GO & PUT MY PHONE IN MY POCKET. LEE'S JUMPIN AROUND, "SVC, BITCH! WE RUN THIS TOWN! I DON'T GOT 'CITY LEGEND' TATTOOED ON MY STOMACH CAUSE I'M A FUNK!" LIFTING UP HIS SHIRT SHOWING OFF HIS TATTOOS & BEING LOUD. WELL HE SEES HE'S ABOUT TO GET JUMPED AND HAS A SUDDEN CHANGE OF HEART. HE STARTS TO BACK PEDAL & WALKS AWAY. WHEN HE TURNS AROUND, THE DUDE FROM THE POOL GAME COMES UP BEHIND HIM SO MY BROTHER STEPS IN. THEY START TO EXCHANGE WORDS AND LEE SAYS, "YOU WANT ME TO HANDLE THIS?" MY BROTHER TELLS HIM TO HOLD ON SO LEE TURNS AROUND AGAIN AND THAT DUDE MAKES A MOVE TO GET LEE FROM BEHIND SO MY BROTHER TEES OFF ON HIM. LEE JUMPS BACK AND STARTS FOR THE CAR THAT DUDE'S BITCH JUMPS AT MY BROTHER SO HE PUSHES HER AWAY. AS SOON AS MY BROTHER PUSHES HER, HIS SIX HOMEBOYS START TO JUMP MY BROTHER. THAT'S WHEN LEE RUNS TO THE CAR AND I COME OUT OF THE WOODWORK LAYING DUDES OUT & GRABBING MY BROTHER. WE RUN TO THE CAR WHERE LEE IS WAITING FOR THE RIDE OUT. MY BROTHER PULLS THE KEYS OUT OF HIS POCKET OPENS THE DOORS & WE ALL BOUNCE OUT. WHEN WE GET TO THE PARK LEE TAKES OFF. SO, WHEN IT'S ALL SAID AND DONE, LEE DIDN'T DO SHIT IN THAT FIGHT EXCEPT START IT, ESCALATE IT, CALL IT OUTSIDE, WALK AWAY FROM IT, LET MY BROTHER GET JUMPED FOR IT, RUN TO THE CAR DURING IT AND WAIT FOR THE RIDE AFTER IT. THAT FIGHT NEVER WOULD HAVE HAPPENED HAD HE NOT STARTED IT. IT NEVER WOULD HAVE GOT FINGERED OUT HAD HE NOT TOLD EVERYONE HE HAD BOISE TATTOOED ON HIS NECK, SVC ON HIS CHEST AND CITY LEGEND ON HIS STOMACH. IT'S HIS OWN FAULT. HE STARTED A FIGHT IN THE BAR & LEFT IT FOR MY BROTHER AND I TO GET JUMPED. WE SAVED HIM FROM GETTING HIT FROM BEHIND & WHILE WE'RE

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OUT NUMBERED, HE RUNS TO THE CAR. EVEN THOUGH HE DID THAT, WE STILL GOT THE FIVE G'S TO BOND HIM OUT. WE DIDN'T HAVE A CO-SIGNER SO WE GOT ON FACEBOOK TO TELL HIS MOM TO GET ONE & WE'LL PAY FOR IT. SHE'S BLASTING ALL OVER FACEBOOK, "MY SON IS IN JAIL FOR WHAT SO-AND-SO DID! IF ANYBODY SAW SO-AND-SO AND SO-AND-SO BEAT UP THIS DUDE AT THIS BAR, CALL DETECTIVE BLAH-BLAH AT 555-5555." WELL, I DIDN'T TELL HER WHAT HAPPENED. MY BROTHER DIDN'T TELL HER WHAT HAPPENED. SHE WASN'T AT THE BAR WITH US. SO WHY DID SHE KNOW EVERYTHING? "HEY, MOM. I'M IN JAIL. I DIDN'T DO IT. THIS IS WHO DID. THIS IS WHAT HAPPENED." RECORDED PHONE CALL. WOW. ~~SO~~ SO, IT GOES WITHOUT SAYING, WE DIDN'T BOND HIM OUT. WE DID PUT MONEY ON HIS BOOKS, THOUGH. LATER ON, I GET LOCKED UP. I HEAR HE'S TALKING SHIT, SO I TRY TO GET MOVED ON HIS TIER AND FIND OUT I CAN'T BECAUSE HE HAS ME ON HIS ENEMY LIST. THEN HE DENIES TALKING SHIT & IS COOL WITH ME. I TRY & GET HIM REMOVED FROM MY ENEMY LIST & GET DENIED OVER & OVER AGAIN. THEN AN INVESTIGATOR COMES TO SEE ME AND SAYS, "LEE CALLED ME TODAY. HE SAID YOU WERE IN HERE AND THAT YOU ~~DO~~ DID WHAT HE'S HERE FOR. HE SAID YOU'D ADMIT TO IT." I TOLD HIM I DIDN'T DO IT & WALKED OUT. THEN AN INVESTIGATOR FOR THE PROSECUTION CAME IN WITH THE ~~SHIT~~ SHIT. I SAID I DIDN'T DO IT AND LEFT. THEN LEE SUBPOENAED ME & MY BROTHER TO COURT WITH ABOUT 8 OTHER PEOPLE ~~THAT~~ TRIED AND TELL ON US SAYING THAT WE DID IT. THEN, HE WAS SUPPOSED TO HAVE TRIAL IN JULY AND THEY PUSHED IT OUT TO AUGUST BECAUSE LEE HAD ME AND MY BROTHERS PICTURES PUT IN A LINE-UP FOR THE BOUNCER OF THE BAR AND FOR THE WITNESSES/VICTIM. SO, IN THE BEGINNING LEE JUST TOLD A BUNCH OF PEOPLE HE KNEW & WOULD TELL ON US THEN AT THE END SUBPOENAED US AND PUT OUR PICTURES IN A PHOTO LINE-UP. HE STARTED CUEING ASPECTS OF THAT NIGHT. EVERYTHING ABOUT IT WAS HIS FAULT. AND I'M THE PIECE OF SHIT? NEXT TIME I'LL JUST LET HIM GET SMASHED OUT. NEXT TIME I'LL LET DONNY COME THROUGH & WRECK HIM FOR HIS 500<sup>00</sup>. WHAT YOU GUYS DON'T KNOW IS I GAVE LEE ~~ALL~~ MY WHOLE TOPPERS PACKAGE WHEN I GOT OUT. I PICKED HIM UP AFTER HE GOT OUT AND GAVE HIM CLOTHES, TOOK HIM OUT, INTRODUCED HIM TO PEOPLE, INTRODUCED HIM TO HIS WIFE, BACKED HIM UP ON MORE THAN ONE OCCASION, GOT HIM A JOB DOING CONCRETE, HOOKED HIM UP WITH A HUSTLE SO HE'D HAVE MONEY, INTRODUCED HIM TO GOOD PEOPLE SO HE'D STAY OUT OF TROUBLE. THEN HE GOT CRAWLED OUT AND STARTED FUCKING EVERYONE OVER. EVEN THEN I'D STILL GO PICK HIM UP WHEN HE WAS STRANDED, GIVE HIM RIDES EVERYWHERE, LET HIM SLEEP UNDER MY ROOF ON MORE THAN ONE OCCASION BECAUSE HE HAD NO WHERE ELSE TO GO. I'M THE PIECE OF SHIT? I TOLD ON EVERYONE? I'M A PUNK? I'M A BITCH? I'M THE ONLY FRIEND LEE'S EVER HAD. WHAT'S HE DONE FOR ME? NOTHING. NO ONE IS IN PRISON BECAUSE I TOLD ON THEM. AND I'M PRETTY SURE I'M NO PUNK/BITCH.

3

GALIXI,

TUESDAY, NOVEMBER 28, 2011

THANKS YOU FOR WRITING BACK. I HOPE EVERYTHING IS GOING WELL FOR YOU GUYS. WHAT DID YOU DO FOR THANKSGIVING? WHAT ARE YOU DOING FOR CHRISTMAS? MORE THAN MAX AND I I'M ASSUMING! ☺

THAT'S WEIRD ABOUT THE PHONE CALLS... I'LL TRY AGAIN WHEN I CAN GET TO A PHONE. DOES ADAM SMITH STILL TRY TO CALL YOU? HE WAS RIGHT NEXT TO ME IN COUNTY AND TALKED ALL DAY ABOUT YOU GUYS AND HOW YOU QUIT ANSWERING HIS CALLS. I WAS LIKE, "TAKE A HINT!" IT MADE ME NOT WANT TO CALL BECAUSE YOU GUYS WOULD THINK I WAS HIM! I SAW HIM THE OTHER DAY. OH WELL. MOVING ON...

ABOUT THE GANG CRAP, YEAH IT IS CRAP THAT I'M IN THE HOLE, BUT HERE'S WHY. ONE OF MY OLD FRIENDS, ME AND MY BROTHER ALL WENT TO A BAKE. MY FRIEND STARTED A FIGHT AND CALLED IT OUTSIDE. I WAS ALREADY OUTSIDE TAKING A PHONE CALL. I SAW MY FRIEND, FOLLOWED BY SEVEN OTHER DUDES FOLLOWED BY MY DIZUNK BROTHER. WELL MY FRIEND SAW THAT IT WAS SEVEN ON ONE AND STARTED TO WALK AWAY. THE WAY HE PICKED THE FIGHT WITH ~~HE~~ CAME UP BEHIND HIM SO MY BROTHER INTERVENED. THEN THEY STARTED TO JUMP MY BROTHER. SO I GOT INVOLVED. WELL, MY "FRIEND" RAN TO THE CAR AND LEFT ME AND MY BROTHER TO GET JUMPED FOR HIS FIGHT. SOMEONE ENDED UP IN THE HOSPITAL AS A RESULT OF MY "FRIENDS" DRAMA. WELL, MY "FRIEND" HAS SOME PIZETTY NOTICEABLE TATTOOS ON HIS NECK ("BOISE" FROM EAR TO EAR ON HIS NECK) SO HE WAS PICKED OUT BY WITNESSES FOR THE COPS. HE GOT CHARGED WITH AGGRAVATED BATTERY FOR THE FIGHT. WELL, HE'S IN A GANG CALLED SVC (SEVERELY VIOLENT CRIMINALS). HE WANTED ME

TO GO INTO COURT AND SAY THAT I WAS THE ONE THAT DID IT. I TOLD HIM, NO. HE LEFT ME AND MY BROTHER TO GET JUMPED WHILE HE RAN FROM A FIGHT THAT HE STARTED. ~~HE~~ HE LEFT US ON OUR OWN TO DEFEND HIM. SO I TOLD HIM HE'S ON HIS OWN. MY BROTHER TOLD ME LATER THAT MY "FRIEND" PINCHED THAT DUDE'S GIRLFRIEND'S BEHIND THEN PUSHED THE DUDE AND SWUNG ON HIM IN THE BAR. AND HE'S MAD AT ME? WELL, IT'S BEEN DRAMA FOR ME EVER SINCE. AND WHEN THEY TRIED TO JUMP ME, I BEAT UP BOTH THE DUDES THAT CAME AFTER ME. THAT WASN'T THE FIRST TIME THEY TRIED TO JUMP ME EITHER. SO THEY SAY THAT SINCE I BEAT THEM UP, IT'S JUST GOING TO GET WORSE FOR ME. I'M LIKE, "YOU WANT ME TO LAY DOWN AND GET BEAT DOWN? YOU'RE CRAZY. THAT'S HOW PEOPLE GET HURT. IT OPENS THE DOOR TO GET WALKED ON." THEY SAY THEY'RE KEEPING ME IN HERE FOR MY OWN SAFETY. STUPID.

ME BEING IN THE HOLE FOR THIS DOESN'T MEAN I LOSE ALL MY LIVINGS. I CAN STILL BUY MY T.V... ACTUALLY, NOW, WOULD BE THE BEST TIME. I HAVE NOTHING ELSE TO DO. AND ALL DAY I PACE, WORK UP OR STAKE AT THE WALL. IT'S PRETTY MONOTONOUS. SO, WHENEVER US GUYS CAN WOULD BE AWESOME! :) IT'S JUST GOTTA BE IN A CASHIERS CHECK OR MONEY ORDER MADE OUT TO "RICHARD LAINE #78330" AND UNDER "REASON" PUT "GIFT."

THANK YOU FOR THE PICTURE! HOW'S YAM'S INJURY? PRETTY SENSITIVE AREA TO BE SHOOTING... HIS DAUGHTER IS ADORABLE!

SO, HOW IS MAX COMING ALONG? IS HE STILL IN YELLOW? I HOPE HE'S KEEPING HIS MIND. RIGHT. I PRAY HE BEATS



ALL OF HIS CHARGES AND GOES HOME. HE NEEDS TO STAY FOCUSED AND SOBER WHEN HE GETS OUT, THOUGH. DRUGS DESTROYED MY LIFE AND I HATE SEEING PEOPLE WITH GOOD HEARTS, LOVING FAMILIES, TONS OF POTENTIAL AND ENDLESS OPPORTUNITIES THROWING AWAY THEIR LIVES FOR DRUGS. IT SUCKS!

HERE'S A PICTURE OF MY SISTER AND I AT MY COUSIN CAROLYN'S WEDDING RECEPTION. THAT WAS SUMMER OF 2010. THAT WAS BEFORE I STARTED USING AGAIN. I HATE WHAT DRUGS HAVE DONE TO ME. I WAKE UP EVERYDAY IN DISBELIEF I CAN'T BELIEVE WHAT I GAVE UP FOR DRUGS. IT BLOWS ME AWAY!

WELL I DON'T WANT TO BORE YOU. I'M GOING TO END THIS FOR NOW. I HOPE TO HEAR FROM YOU AGAIN SOON. TELL MAX I SAY "HI" AND TO KEEP ~~HE~~ HIS HEAD UP.

P.S.

-RICHIE

I DON'T EXPECT A "HAND OUT" FROM YOU GUYS SO I PROMISE I WILL WORK OFF ANYTHING AND EVERYTHING YOU GUYS DO FOR ME. JUST SO HAPPENS I'M EXCELLENT AT RAKING LEAVES, SHOVELING SNOW AND WASHING CARS! (U)

P.P.S.

ALSO, WHERE IS IT BEST TO WRITE YOU? UTR OR TARA ST?

# INDEPENDENT FORENSIC LABORATORIES

5189 S. Espadrille Drive, Salt Lake City, Utah 84129-1274

\*\*\*\*\*

George J. Throckmorton  
Forensic Document Examiner

(801) 968-6856  
(801) 232-6666

## Professional Qualifications (January 17, 2012)

\*\*\*\*\*

### EMPLOYMENT HISTORY:

#### Forensic Document Examiner since 1970:

I am presently a Document Examiner for the Independent Forensic Laboratories where I conduct scientific examinations on forged and disputed documents. For more than 20 years I have also maintained a contract with the worldwide headquarters of American Express Company, where I conduct forgery examinations on travelers cheques from around the world. In 2006 I retired as the Director of the Salt Lake City Police Crime Lab, and before that I was the Director of the Northern Regional Crime Lab at Weber State University. I previously worked as a Forensic Document Examiner with the State of Utah Crime Lab, Utah Attorney General's Office, Salt Lake District Attorney's Office, San Diego Sheriff's Office Crime Lab, and Ogden City Police Dept Crime Lab.

#### Instructor of Forgery/Identification Techniques:

- Washington State University - Institute of Applied Science - Weber State University
- American Express Corporation - American Institute of Banking - Florida Police Academy
- Salt Lake Community College - Utah Peace Officer Standards and Training

### FORMAL EDUCATION:

- A.S. and B.S. degrees in Police Science from Weber State University
- M.A. degree in Criminalistics from Washington State University

### SPECIALIZED TRAINING IN FORENSIC DOCUMENT EXAMINATION:

- Educational seminars 2-3 times each and every year since 1978.
- F.B.I., Quantico, Virginia.
- U.S. Secret Service, Washington D.C.
- Institute of Applied Science, Chicago, Illinois.
- Ogden City Police Department, Crime Laboratory.

### MISC. INFORMATION:

- Board "Certified" Diplomate: American Board of Forensic Document Examiners, 1987.
- "Fellow" of the American Academy of Forensic Sciences, Questioned Document Section, 1984.
- Editorial Board of the "Journal of Forensic Identification."
- Past Chairman: Questioned Document Section, 1999/2002 and 2007/2008, International Association for Identification; oldest and largest forensic organization in the World (6,900 members in 39 countries)
- Past President: Southwestern Association of Forensic Document Examiners, 1996/1998.
- Past President: Utah Division of International Association for Identification, 1996/1997.
- Recipient of the Utah Division, I.A.I. "James H. Gaskill, Distinguished Service Award" 1998
- Participant in "Proficiency Testing Program," by Collaborative Testing Services.
- Personally worked on more than 10,000 separate cases involving 100,000+ documents.
- Testified as an "Expert Witness" in Local, State, and Federal courts 500 times since 1970.
- Consultant, advisor, and/or subject of 10 books, and numerous documentaries broadcast on CBS "60 Minutes," A&E Network, Fox Television, Discovery Channel, History Channel, Learning Channel, Medical Network, Court TV, BBC; as well as local TV stations in, Kansas, Missouri, Texas and Utah.

- Instructor/lecturer/expert witness on Forgery Detection, and Handwriting Identification in . . .

Arizona	California	Colorado	Florida	Georgia	Idaho
Illinois	Missouri	Montana	Nevada	Maine	New Mexico
New York	Oklahoma	Oregon	Rhode Island	Texas	Utah
Washington	Wash. D.C.	W. Virginia	Wyoming	Montreal, Canada	

----- Additional information given upon request! -----

000253

147.  
HS  
2/13  
9:30

JAN 25 2012

CHRISTOPHER D. RICH, Clerk  
By MAURA OLSON  
DEPUTY

**GREG H. BOWER**

Ada County Prosecuting Attorney

**Jeff White**

Deputy Prosecuting Attorney  
200 W. Front Street, Room 3191  
Boise, Id. 83702  
(208) 287-7700 Telephone

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF

THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,

Plaintiff,

vs.

LEE ODELL FAIR,

Defendant.

Case No. CR-FE-2010-0020120

**STATE'S OBJECTION TO  
DEFENDANT'S MOTION FOR  
NEW TRIAL**

**COMES NOW**, Jeff White, Deputy Prosecuting Attorney for Ada County, State of Idaho, and hereby presents the State's Objection to Defendant's motion in for a new trial, for the reasons stated below.

**FACTS**

The facts of the underlying case giving rise to Defendant's conviction for Aggravated Battery are well known to the Court, as it presided over the trial and sentenced Defendant, and will not be repeated here.

Following Defendant's conviction, this Court sentenced him to a term of 5+15=20, imposed the sentence, and remanded Defendant to the custody of the Idaho Department of

Correction. Defendant is a documented member of the criminal gang “Severely Violent Criminals” (hereafter “SVC”). Since returning to prison, Defendant has continued to group and associate with members of SVC and is closely monitored by prison personnel due to his ongoing activities with SVC. *See Affidavit of Scott Palmer* (hereafter “Palmer”), at 2. Defendant is currently housed at ISCI, Unit 14. *Id.*

In cases wholly unrelated to Defendant, Richard Laine (IDOC # 78330) was convicted of Burglary (CRFE-11-1924) and Grand Theft (CRFE-10-21907). Following his sentencing hearing, Laine was also committed to the custody of the Idaho Department of Correction for a term of imprisonment of ten years, with 2.5 years fixed and 7.5 years indeterminate. For reasons unknown, Mr. Laine was housed by IDOC as ISCI (the same facility housing Defendant). *Palmer* at 2.

Shortly after his arrival at ISCI, the SVC gang issued a “Smash on Site” (sic) order against Laine. *Id.* According to IDOC personnel, this order requires any current SVC member or prospective member to attack Laine any time he is seen. *Id.* Confidential informants have informed IDOC personnel that the reason for the “Smash on Site” order is that SVC believes Laine failed to support SVC and failed to “do the right thing” for Defendant. *Id.* After arriving at ISCI, inmate Laine has been the victim of multiple suspected or confirmed assaults by SVC members and prospects due to the “Smash on Site” order. *Id.* at 2-3. Against Laine’s wishes, he has been segregated and placed in protective custody since November 13, 2011. *Id.* at 3.

On November 30, 2011, approximately two and a half weeks after the last round of SVC attacks on Laine, IDOC personnel intercepted a letter in Laine’s outgoing mail. *Id.* IDOC Investigator Scott Palmer forwarded the letter to this office, and a copy was then promptly forwarded to defense counsel. A copy of that letter was attached to Defendant’s Motion for New Trial.

### **LEGAL STANDARDS**

Defendant requests relief pursuant to I.C.R. 34, which states that the Court may grant a new trial “if required in the interest of justice.” The decision to grant a new trial is committed to the sound discretion of the trial court. *See State v. Strange*, 147 Idaho 686, 688 (Ct. App. 2009). The granting of a motion for a new trial will be an abuse of discretion if it is granted contrary to the interest of justice, or if it is granted for any reason other than those promulgated in I.C. § 19-

2406. *Id.* Defendant's motion does not indicate any reason for the request than "new evidence", which is governed by I.C. 19-2406(7).

## **ARGUMENT**

### **I. Defendant's motion fails to comply with I.C. § 19-2406(7).**

I.C. §19-2406 provides as follows:

7. When new evidence is discovered material to the defendant, and which he could not with reasonable diligence have discovered and produced at the trial. When a motion for a new trial is made upon the ground of newly-discovered evidence, *the defendant must produce at the hearing in support thereof the affidavits of the witnesses by whom such evidence is expected to be given*, and if time is required by the defendant to procure such affidavits the court may postpone the hearing of the motion for such length of time as, under all the circumstances of the case, may seem reasonable.

Idaho Code Ann. § 19-2406 (emphasis added). Defendant has produced no affidavits in support of his motion. The only evidence produced is an unverified letter purportedly from Richard Laine. There is no indication that Mr. Laine, if called to testify at any new trial, would testify any differently that he did at Defendant's first trial. Given the lack of supporting affidavits, the Court should deny the motion.

### **II. The evidence offered would not alter the outcome of the trial.**

As noted in Defendant's motion, at trial this Court heard testimony from a number of defense witnesses outside the presence of the jury before ultimately excluding all of them from testifying. A rough summary of the witness testimony:

- i. Richard Laine: said he was not present, was not involved in Mr. Fair's crime, and knows nothing about it.
- ii. Tommy Basco: claimed to overhear a telephone conversation between Defendant and a person purported to be the victim (Gerald Blakely).
- iii. Larson Firth, Nina Lucas, Lynard Rood, and Norman Ortiz-Perez: each claimed to be witnesses to various conversations involving Richard Laine wherein Laine allegedly claimed to be the "real culprit" of the crime Defendant was accused of.

Laine and Basco were excluded as irrelevant. Firth, Lucas, Rood, and Ortiz-Perez were excluded as both irrelevant and hearsay, with the Court noting that the witness' testimony did not qualify for the "Statement Against Interest" exception of I.R.E. 804(b)(3). Defendant's Motion for New Trial suggests (page 3), without any supporting documentation, that Mr. Laine, if given the opportunity to testify at a new trial, might possibly change his testimony to match the contents of the newly discovered letter. Whether or not this is actually true or not, the proffered evidence would have no effect on the jury verdict.

b. If Laine does not change his testimony, the proffered letter is inadmissible.

Assuming a new trial in which Laine testifies consistent with his previous testimony, he would still be excluded as a witness for the same reasons (no relevant testimony) the Court previously excluded him. This would leave Defendant in the same position he was previously in with witnesses Firth, Lucas, Rood, and Ortiz-Perez; namely, that he must overcome the State's hearsay objection by proving the letter would qualify for the "Statement Against Interest" exception of I.R.E. 804(b)(3).

This proffered letter fails to meet the exception for a myriad of reasons, each of which has already been discussed at length by the Court while it explained its ruling excluding Defendant's other witnesses. First, the letter itself is incredibly vague, contains no names, and could hardly be shown to conclusively be referring to the fight Defendant was convicted for. Second, in the letter Laine never claims to have done anything at all. The letter references Mr. Laine jumping into a fight, "someone" ending up in the hospital, and that Defendant wanted Laine to come to court and say it was him (Laine) that "did it." That is not an admission that Laine actually in fact "did it", only that someone did, and that Defendant wanted Laine to say it was Laine.

Third, the letter describes the genesis of the fight as being Laine's "brother" being jumped by seven other individuals. Assuming the "someone" who went to the hospital is one of the seven attackers, this statement would not be "so far tended to subject declarant to criminal liability" at all because it would reflect actions of self defense or defense of others. Finally, the letter itself radically contradicts every single detail of the incident resulting in Defendant's conviction. Not one eyewitness testified at trial to anything even close to the description given in the letter, and it even contradicts Defendant's own account of the incident given in two separate recorded jail calls. *See Exhibit A*, a CD containing the two calls in question. Defendant's own

account is strikingly similar to the testimony of all of the eyewitnesses; the only difference is that he claims to have run for the car shortly before he says Mr. Laine punched the victim. This letter fails even the most basic test for credibility and could not possibly satisfy the strictures of I.R.E. 804(b)(3).

- c. If Laine does change his testimony, no reasonable jury could possibly reach a different verdict.

Assuming for the sake of argument that Laine would actually testify consistent with the proffered letter at a new trial, and that we can draw every conceivable inference from the letter to mean that Laine would testify that he is the real perp, the ultimate verdict would be unchanged for a number of reasons. The contents of the letter cannot be squared with Laine's prior testimony (assuming the letter actually refers to the Defendant's fight at all), which would open Laine up to charges of perjury for at least one set of testimony. For all of the reasons outlined in the preceding section, Laine would be subject to extensive cross-examination regarding the incredulity of this new version of the events. His prior sworn testimony in which he claimed no involvement would also be fodder for cross-examination. Laine's testimony would open the door for the State to admit the two jail calls in *Exhibit A* as rebuttal evidence, in which the Defendant himself claims the events at Dino's unfolded in a manner nearly 100% consistent with the eyewitness testimony and flagrantly inconsistent with the proffered letter.

Further, it is the State's position that were Mr. Laine to now testify that he were the real perp and that he had previously lied under oath, this would also open the door for the State to impeach the credibility of Laine's testimony by reference to Defendant's ongoing gang activities, his membership in SVC, and the multiple attacks by SVC members against Laine which all immediately preceded this newly authored letter. All of this evidence would be necessary for the State to adequately explain to the jury why Laine had received a rather powerful motivation to get on SVC's good side since he last testified. While the Court would undoubtedly issue a limiting instruction regarding such evidence, its effect on Defendant's case would be monumental. Given the extreme weight of the evidence contradicting the letter, it (or testimony consistent with it) could not be given any evidentiary value by a rational jury.

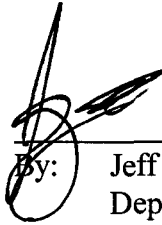
### CONCLUSION

For the foregoing reasons, the State respectfully requests that the Court DENY the Defendant's Motion for a New Trial.

DATED this 25 day of January 2012.

**GREG H. BOWER**

Ada County Prosecuting Attorney



By: Jeff White  
Deputy Prosecuting Attorney

### CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 25 day of January, 2011, a true and correct copy of the foregoing State's Objection to Defendant's Motion for New Trial was served to **Brian Marx, Ada County Public Defender, 200 W. Front Street, Room 1107, Boise, ID 83702**, in the manner noted below:

*\* HAND DELIVERY*

- ☐ By depositing copies of the same in the United States mail, postage prepaid, first class.
- ☐ By depositing copies of the same in the Interdepartmental Mail.
- ☐ By informing the office of said individual(s) that said copies were available for pickup at the Office of the Ada County Prosecutor.
- ☐ By faxing copies of the same to said attorney(s) at the facsimile number: \_\_\_\_\_



Legal Assistant



NO. \_\_\_\_\_  
A.M. \_\_\_\_\_ FILED P.M. 4  
**JAN 25 2012**  
CHRISTOPHER D. RICH, Clerk  
By MAURA OLSON  
DEPUTY

**GREG H. BOWER**  
Ada County Prosecuting Attorney

**Jeff White**  
Deputy Prosecuting Attorney  
200 W. Front Street Room 3191  
Boise, Idaho 83702  
Telephone: (208) 287-7700

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BOISE

THE STATE OF IDAHO,	)	
	)	<b>Case No. CR-FE-2010-0020120</b>
Petitioner,	)	
	)	<b>AFFIDAVIT OF SCOTT PALMER</b>
vs.	)	
	)	
LEE ODELL FAIR	)	
	)	
Respondent.	)	
_____		
STATE OF IDAHO	)	
	) ss:	
County of Ada	)	

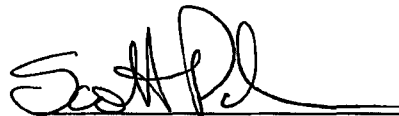
Scott Palmer, being first duly sworn, deposes and says:

- 1) I am currently employed as an investigator with the Idaho Department of Correction. My current assignment is with Idaho State Correctional Institution Investigations as an Intelligence Officer. I am also a South Boise Complex Security Threat Group Intelligence Officer and an IDOC Field Training Officer.
- 2) My current assignments involve conducting criminal and administrative investigations, the collection and gathering of intelligence, and ongoing monitoring and investigation of Security Threat Groups (STGs) inside correctional facilities. These investigations must be thorough, fair, and objective.

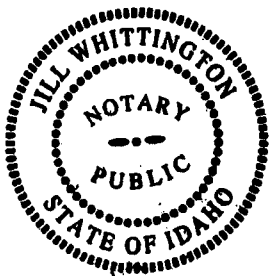
- 3) I also serve as a liaison to outside law enforcement personnel who are conducting criminal investigations related to IDOC facilities and/or inmates.
- 4) I have been a correctional officer since 2006, and in my current position since April of 2011. During that time, I have participated in hundreds of investigations related to STGs, and have received extensive training related to interviews, interrogation, and management of criminal gangs within the community and institutionally.
- 5) Due to my current position and responsibilities with as an investigator with IDOC, I have both personal knowledge and access to IDOC records relating to inmates Lee Odell Fair (#70886) and Richard Gordon Laine (#78330).
- 6) From October 6 to October 11, 2011, Inmate Fair was briefly housed in Restrictive Housing at ISCI. This was due to specific safety concerns regarding whether Inmate Fair was still in good standing with the criminal gang Severely Violent Criminals (SVC). SVC is an identified and documented Security Threat Group within IDOC facilities.
- 7) Since October 11, 2011, Inmate Fair has not been in Restrictive Housing. He is currently (since November 29, 2011) housed in Unit 14 of ISCI, in general population, being closely monitored as an active gang member with SVC.
- 8) Since returning to the custody of IDOC, Inmate Fair has not been the victim of any confirmed or suspected attacks by members or prospects of SVC.
- 9) Inmate Fair has been reported as grouping and associating with other documented members of SVC.
- 10) Inmate Laine arrived at ISCI on September 16, 2011. Inmate Laine was placed into segregation due to threats against his safety.
- 11) Multiple sources have confirmed that SVC has issued a "Smash on Site" order against Inmate Laine. A "Smash on Site" order requires any gang member or prospect of SVC to attack Inmate Laine immediately if they see him. These sources have claimed that the order was issued due to Inmate Laine not supporting SVC and what the gang perceived as Inmate Laine's failure to "do the right thing" for Inmate Fair and "take his charge."
- 12) On November 1, 2011, Inmate Laine was again placed in segregation because it was suspected he was the victim of an assault. Inmate Laine was released from segregation on November 10, 2011.

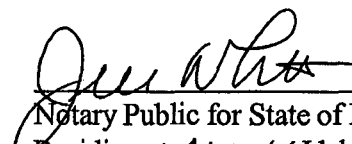
- 13) On November 13, 2011, Inmate Laine was attacked by three other inmates. One of the attackers was an SVC prospect and another was a documented SVC gang member. Inmate Laine successfully fought off the prospect, at which point he was assaulted by the remaining two inmates until staff intervened to rescue him.
- 14) Following the latest attack on Inmate Laine, he was administratively placed in Protective Custody (over his objection) for his own safety.
- 15) On November 30, 2011, IDOC staff intercepted a letter from Inmate Laine in his outgoing mail. The letter was dated November 28, addressed to "Galaxi", and appeared to make references relevant to the altercation Inmate Fair claimed Inmate Laine was responsible for (and that Inmate Fair had been convicted of).
- 16) After receiving this letter, I contacted Ada County Deputy Prosecutor Jeff White and emailed a copy of the letter to him.

**FURTHER YOUR AFFIANT SAYETH NAUGHT.**

  
By: Scott Palmer

SUBSCRIBED AND SWORN to before me this 25<sup>th</sup> day of January, 2012.



  
Notary Public for State of Idaho  
Residing at Ada County, Idaho  
Commission expires 3-27-12

TO: Clerk of the Court  
Idaho Supreme Court  
451 West State Street  
Boise, Idaho 83720  
(208) 334-2616

NO. \_\_\_\_\_  
A.M. 8:00 FILED P.M. \_\_\_\_\_

FEB 01 2012

CHRISTOPHER D. RICH, Clerk  
By BRADLEY J. THIES  
DEPUTY

**IN THE SUPREME COURT OF THE STATE OF IDAHO**

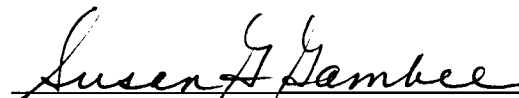
- - - - - x Docket No. 39255-2011  
STATE OF IDAHO, :  
 :  
Plaintiff-Respondent, :  
 :  
vs. :  
 :  
LEE ODELL FAIR, :  
 :  
Defendant-Appellant. :  
 :  
- - - - - x

**NOTICE OF TRANSCRIPT OF 410 PAGES LODGED**

Appealed from the District Court of the  
Fourth Judicial District of the State of  
Idaho, in and for the County of Ada,  
Deborah A. Bail, District Court Judge.

This transcript contains hearing held on:  
8/9-11/11 & 10/3/11

DATE: November 29, 2011

  
\_\_\_\_\_  
Susan G. Gambee, Official Court Reporter  
Official Court Reporter,  
Judge Deborah Bail  
Ada County Courthouse  
Idaho Certified Shorthand Reporter No. 18  
Registered Merit Reporter

BT

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff-Respondent,

vs.

LEE ODELL FAIR,

Defendant-Appellant.

Supreme Court Case No. 39255

CERTIFICATE OF EXHIBITS

I, CHRISTOPHER D. RICH, Clerk of the District Court of the Fourth Judicial District of the State of Idaho in and for the County of Ada, do hereby certify:

That the attached list of exhibits is a true and accurate copy of the exhibits being forwarded to the Supreme Court on Appeal.

I FURTHER CERTIFY, that the following documents will be submitted as CONFIDENTIAL EXHIBITS to the Record:

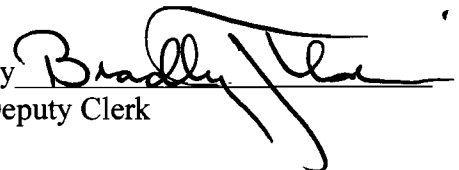
1. Pre-Sentence Investigation Report.

I FURTHER CERTIFY, that the following documents will be submitted as EXHIBITS to the Record:

1. Transcript of Preliminary Hearing Held December 28, 2010, Boise, Idaho, filed March 7, 2011.
2. State's Exhibit A attached to: *State's Objection To Defendant's Motion For New Trial, filed January 25, 2012.*

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the said Court this 2nd day of February, 2012.

CHRISTOPHER D. RICH  
Clerk of the District Court

By   
Deputy Clerk

CERTIFICATE OF EXHIBITS

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

Deborah Bail/T. Therrien  
District Judge Clerk

August 11, 2011

STATE OF IDAHO,

Plaintiff,

vs.

LEE ODELL FAIR,

Defendant.

EXHIBIT LIST

Case No. CRFE10-20120

JURY TRIAL

Plaintiffs Counsel:  
Jeff White  
PROSECUTING ATTORNEY

Defendants Counsel:  
Brian Marx  
ATTORNEY AT LAW

<u>BY</u>	<u>NO.</u>	<u>DESCRIPTION</u>	<u>STATUS</u>	<u>DATE</u>
State	1	Central Records from IDOC	Admitted	8/11/11

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff-Respondent,

vs.

LEE ODELL FAIR,

Defendant-Appellant.

Supreme Court Case No. 39255

CERTIFICATE OF SERVICE

I, CHRISTOPHER D. RICH, the undersigned authority, do hereby certify that I have personally served or mailed, by either United States Mail or Interdepartmental Mail, one copy of the following:

CLERK'S RECORD AND REPORTER'S TRANSCRIPT

to each of the Attorneys of Record in this cause as follows:

STATE APPELLATE PUBLIC DEFENDER

ATTORNEY FOR APPELLANT

BOISE, IDAHO


LAWRENCE G. WASDEN

ATTORNEY FOR RESPONDENT

BOISE, IDAHO

CHRISTOPHER D. RICH  
Clerk of the District Court

Date of Service: FEB 02 2012

By   
Deputy Clerk

CERTIFICATE OF SERVICE

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff-Respondent,

vs.

LEE ODELL FAIR,

Defendant-Appellant.


Supreme Court Case No. 39255

CERTIFICATE TO RECORD

I, CHRISTOPHER D. RICH, Clerk of the District Court of the Fourth Judicial District of the State of Idaho, in and for the County of Ada, do hereby certify that the above and foregoing record in the above-entitled cause was compiled and bound under my direction as, and is a true and correct record of the pleadings and documents that are automatically required under Rule 28 of the Idaho Appellate Rules, as well as those requested by Counsels.

I FURTHER CERTIFY, that the Notice of Appeal was filed in the District Court on the 6th day of October, 2011.

CHRISTOPHER D. RICH  
Clerk of the District Court

By   
Deputy Clerk

CERTIFICATE TO RECORD

000267